April 24, 2014

Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

Enclosed for your consideration is the Report of the Small Business Review Panel ("Panel") that was convened on February 27, 2014, for the rulemaking by the Consumer Financial Protection Bureau ("Bureau") to implement amendments to the Home Mortgage Disclosure Act ("HMDA") in the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") and to make related changes to the Bureau's Regulation C (12 CFR part 1003).

Pursuant to section 609(b) of the Regulatory Flexibility Act (5 U.S.C. 609(b)), the Panel was convened by Dan Sokolov, the Bureau's Panel Chair and Deputy Associate Director for the Bureau's Division of Research, Markets, and Regulations. In addition to its Chair, the Panel consists of Dr. Winslow Sargeant, Chief Counsel for Advocacy of the Small Business Administration; Howard Shelanski, Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget; and Thomas Kearney, Senior Counsel in the Bureau's Office of Regulations.

The Panel met with representatives of small entities that would be subject to the rule on March 6, 2014 ("outreach meeting"), to obtain their feedback on proposals that the Bureau is considering to improve the HMDA data collected and modernize and streamline the submission and reporting of the data. Before the outreach meeting, the Bureau provided the representatives of the small entities with materials outlining the proposals under consideration and alternatives considered. In February 2014 the Panel also held three teleconferences: an initial introduction to the SBREFA process; and two small group discussions about the Bureau's understanding of business operations on which its preliminary benefits and costs analysis was based. The preliminary teleconferences helped to prepare the representatives and the Panel for a discussion of the specific proposals under consideration during the outreach meeting. In addition to participating in the meetings, many of the representatives provided the Panel with written comments subsequent to the outreach meeting.

The Panel is appreciative of the thoughtful contributions made by the representatives of small entities who participated in this Panel process. The Panel recognizes that the time required for the participants to review materials, prepare for and participate in the meetings, and provide additional written comments was significant. While this participation at an early stage of the rulemaking is important, public participation and input during subsequent stages of the rulemaking will also assist in the development of a final rule. Therefore, the Panel hopes the participants will continue to be engaged in this rulemaking through the public comment process following publication of the proposed rule.

The Panel's findings and recommendations are based on the information available at the time the final Panel Report was prepared. The Bureau is continuing to conduct analyses and gather information as part of the rule development process. Any options identified by the Panel for reducing the rule's economic impact on small entities may require further consideration, analysis, and data collection by the Bureau to ensure that the options are practicable, enforceable, and consistent with HMDA, the Dodd-Frank Act, and their statutory purposes.

The complete Panel Report is attached, including background information on the proposals and significant alternatives under consideration by the Bureau that were reviewed by the Panel; a description of the types, and an estimate of the number, of small entities that would be subject to those proposals; a summary of the comments and recommendations of the small entity participants; the Panel's findings and recommendations; and attachments including certain materials presented to the small entity representatives. In this report, the Panel recommends that the Bureau seek additional information on potential impacts and consider certain alternatives that might reduce the burden on small entities.

[signatures to follow]

Sincerely,

Dan Sokolov
Chair
Small Business Review Panel
Bureau of Consumer Financial Protection

Dr. Winslow Sargeant
Chief Counsel for Advocacy
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Howard Shelanski
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Office of Regulations
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[signatures to April 24, 2014, letter to Director Richard Cordray regarding Small Business Review Panel Report]

FINAL REPORT

of the Small Business Review Panel
on the CFPB's Proposals Under Consideration for the

HOME MORTGAGE DISCLOSURE ACT (HMDA) RULEMAKING

April 24, 2014

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1. INTRODUCTION

Under the Regulatory Flexibility Act ("RFA"),[1] the Consumer Financial Protection Bureau ("CFPB" or "Bureau") must convene and chair a Small Business Review Panel to consider the potential impacts on small entities of each of its proposed rules unless the CFPB plans to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.[2] A Small Business Review Panel consists of representatives from the CFPB, the Chief Counsel for Advocacy of the Small Business Administration ("SBA"), and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget ("OMB"). For a CFPB rule subject to the Small Business Review Panel process, the Panel reviews materials the CFPB has prepared on the potential proposed rule and collects advice and recommendations of individual small entity representatives ("SERs") on certain issues related to the potential proposed rule. The SERs are identified and selected in consultation between the CFPB and SBA. Not later than 60 days after the CFPB convenes a Small Business Review Panel, the Panel completes a report on the comments of the SERs and its findings as to certain issues. The CFPB considers the Panel Report as it develops its proposed rule and makes the report public when it issues the proposed rule.

The CFPB plans to issue a proposed rule to implement amendments to the Home Mortgage Disclosure Act ("HMDA")[3] included in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, approved July 21, 2010) ("Dodd-Frank Act"),[4] and to make other changes in the CFPB's Regulation C,[5] which implements HMDA. In anticipation of a proposed rule to revise Regulation C, the CFPB convened and chaired a Small Business Review Panel ("Panel"). This is the final report of the HMDA Panel ("Panel Report") on the CFPB's Proposals Under Consideration for the HMDA Rulemaking. More detail on how the CFPB has been approaching its HMDA rulemaking and the proposals it is considering are provided the Outline of Proposals Under Consideration and Alternatives Considered ("Outline") that is included in Appendix B of the Panel Report.

This Panel Report includes the following:

- Background information on the proposals that are being considered by the CFPB and that were reviewed by the Panel;
- Information on the types of small entities that would be subject to those proposals and on the SERs who were selected to advise the Panel;

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[1] The RFA (Pub. L. 96-354, 94 Stat. 1164 (1980)) is codified as amended at 5 U.S.C. 601-612 (http://uscode.house.gov/view.xhtml?path=/prelim@title5/part1/chapter6&edition=prelim).

[2] Under section 609(b) of the RFA, a Panel is required to be convened prior to the publication of the initial regulatory flexibility analysis that the CFPB may be required to prepare under section 603 of the RFA.

[3] 12 U.S.C. 2801-2810 (http://uscode.house.gov/view.xhtml?path=/prelim@title12/chapter29&edition=prelim).

[4] Dodd-Frank Act, sec. 1094 (http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf#page=581).

[5] 12 CFR part 1003.

- A summary of the Panel's outreach to obtain the advice and recommendations of those SERs;

- A discussion of the comments and recommendations of the SERs; and

- A discussion of the Panel findings and recommendations, focusing on the following statutory elements:[6]

  - A description of and, where feasible, an estimate of the number of small entities to which the proposals under consideration will apply;

  - A description of projected reporting, recordkeeping, and other compliance requirements of the proposals under consideration, including an estimate of the classes of small entities which will be subject to the rule's requirements and the type of professional skills necessary for preparation of the report or record;

  - An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposals under consideration; and

  - A description of any significant alternatives to the proposals under consideration which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposals under consideration on small entities.

This Panel Report will be included in the public rulemaking record. The CFPB will consider the Panel's findings when preparing the proposed rule and the Initial Regulatory Flexibility Analysis.

It is important to note that the Panel prepares and completes its report at an early stage in the development of a proposed rule and this Panel Report should be considered in that light. The Panel's findings and discussion are based on the information available at the time the final Panel Report was prepared. The CFPB may conduct additional analyses and obtain additional information during the remainder of the rule development process. At the same time, the Panel Report provides the Panel and the CFPB with an opportunity to identify and explore potential ways of shaping the proposals under consideration to minimize the burden of the rule on small entities while achieving the rule's purposes.

Any options identified by the Panel for reducing the rule's regulatory impact on small entities may require further consideration, analysis, and data collection by the CFPB to ensure that the options are practicable, enforceable, and consistent with HMDA, the Dodd-Frank Act, and their statutory purposes.

6 *See* RFA section 603 (5 U.S.C. 603); RFA section 609(b)(5) (5 U.S.C. 609(b)(5)).

2. BACKGROUND

2.1 Statutory and Regulatory Background

Congress enacted HMDA in 1975 as part of an initiative both to counter redlining and the effects of disinvestment in urban neighborhoods, and to encourage reinvestment in the nation's cities. HMDA requires financial institutions ("FIs") that meet certain coverage tests to report to their Federal supervisory agencies transaction-level information about mortgage applications they receive and loans they close or purchase. The information that FIs report generally does not include personal information that directly identifies individuals, such as name, address, date of birth, or social security number. HMDA data are made public by both the FIs and the government on a calendar year basis, with some redactions to protect applicant and borrower privacy.

As originally adopted, HMDA stated its purposes as providing the public and public officials with information to help determine whether FIs are serving the housing needs of the communities in which they are located, and helping public officials target public investment to attract private investment in communities. Congress significantly revised HMDA in the 1980s. In particular, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") expanded HMDA to, among other things, require FIs to report the race, income, and gender of applicants and borrowers. The FIRREA amendments established HMDA data as a means to identify possible discriminatory lending patterns and to enforce antidiscrimination statutes. The Board of Governors of the Federal Reserve System ("Board") implemented HMDA through Regulation C, until the Dodd-Frank Act transferred that authority to the CFPB.

Today, HMDA data are the preeminent data source for regulators, industry, advocates, researchers, and economists studying and analyzing trends in the mortgage market for a variety of purposes, including general market and economic monitoring, as well as assessing housing needs, public investment, and possible discrimination. Data users have long called for expansion of HMDA data to keep pace with the mortgage market's evolution. In response to the subprime market's emergence, the Board amended Regulation C in the mid-2000s to require FIs to report loan pricing information on loans deemed "higher-priced." Many continued to press for improvements in HMDA data, however, particularly during the mortgage market's rapid growth into nontraditional lending products and its subsequent collapse in 2008.

In 2010, Congress responded to the mortgage crisis in the Dodd-Frank Act by enacting changes to HMDA as well as directing reforms to the mortgage market and the broader financial system. In addition to transferring rulemaking authority for HMDA from the Board to the CFPB, section 1094 of the Dodd-Frank Act directed the CFPB to implement changes requiring the collection and reporting of several new data points, including information about applicants and borrowers (age and credit score), information about loan features and pricing, and, as the CFPB determines to be appropriate, unique identifiers for loans, properties, and loan originators. It also authorized the CFPB to require FIs to collect and report "such other information as the Bureau may require."[7]

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[7] Dodd-Frank Act at sec. 1094(3)(A)(iv)(5)(D) & (6)(J).

2.2 Related Federal Rules

The Dodd-Frank Act amended HMDA to provide new requirements and authorities that expand or vary existing provisions in Regulation C. The CFPB noted in the Outline that some of the changes to Regulation C that are under consideration also may relate to or affect other statutes and regulations. The CFPB is reviewing other Federal laws, including the following, to avoid duplication and inconsistencies to the extent practicable, consistent with the requirements of the Dodd-Frank Act and purposes of HMDA:

- The **Community Reinvestment Act ("CRA")**, as implemented by Office of Comptroller of the Currency, Board, and Federal Deposit Insurance Corporation regulations, requires some FIs to collect, maintain, and report certain data about small business, farm, and consumer lending to ensure they are serving their communities. HMDA data are frequently used in CRA exams as part of evaluating home mortgage lending under the CRA lending test, and many CRA definitions and concepts are aligned with HMDA. The CFPB indicated that it intends to work with CRA regulatory agencies to ensure that HMDA and the CRA do not conflict and that HMDA data can continue to be used as part of the CRA compliance process.

- The **Equal Credit Opportunity Act ("ECOA")**, implemented by the CFPB's Regulation B (12 CFR part 1002), prohibits creditors from discriminating in credit transactions and requires creditors to notify applicants of reasons for denial and provide copies of appraisals for certain home-secured loans. Regulation B requires creditors to collect race, ethnicity, sex, marital status, and age of applicants for some home purchase loans and refinancings and to maintain that information for 25 months for purposes of monitoring compliance with antidiscrimination laws. One of HMDA's purposes is to provide data that can be used to assist in enforcing ECOA and other antidiscrimination statutes.

- The **Truth in Lending Act ("TILA")** and **Real Estate Settlement Procedures Act ("RESPA")**, implemented by the CFPB's Regulation Z (12 CFR part 1026) and Regulation X (12 CFR part 1024), provide protections to consumers who apply for and receive mortgage loans. These protections include disclosures, restrictions on certain types of transactions, and loan servicing requirements. The CFPB recently issued a final rule on integrated mortgage disclosures under RESPA (Regulation X) and TILA (Regulation Z). The CFPB indicated that it considered the definitions, requirements, and purposes of TILA and RESPA as it developed its proposals under consideration for the revision of Regulation C.

- Proposed **Regulation AB II** (17 CFR part 229, subpart 229.1100) from the Securities and Exchange Commission ("SEC") would require private issuers of asset-backed securities, including mortgage-backed securities, to disclose certain asset-level information.

3. OVERVIEW OF PROPOSALS UNDER CONSIDERATION AND ALTERNATIVES CONSIDERED

The SERs and the Panel reviewed proposals that the CFPB is considering to implement Dodd-Frank Act amendments to HMDA and revise Regulation C to improve the data collected and modernize and streamline the collection and reporting of HMDA data. The Dodd-Frank Act requires the collection and reporting of several new data points, including information about borrowers (age and credit score), information about loan features and pricing, and, as the CFPB determines to be appropriate, unique identifiers for loans, properties, and loan originators. It also authorizes the CFPB to require FIs to collect and report "such other information as the CFPB may require."

As stated in the Outline, the CFPB views implementation of the Dodd-Frank Act changes to HMDA as an opportunity to comprehensively review the HMDA reporting regime. In particular, the CFPB is assessing whether there are opportunities to improve upon the data collected, reduce unnecessary burden on FIs, and, as appropriate, modernize and streamline the manner in which FIs collect and report data. Such opportunities could include building on certain private-market data standards initiatives. In addition, the CFPB plans to propose revisions to Regulation C to clarify current regulatory requirements.

Specifically, the CFPB is considering proposals related to:

- Which FIs are required to report HMDA data;
- The types of loans and applications that must be reported;
- The information required about each loan or application; and
- Potential operational improvements in the HMDA compliance system.

Sections 3.1 through 3.5 below outline specific CFPB proposals under consideration and alternatives considered as they were presented to the SERs. The more detailed summary of those proposals and alternatives, which focuses in part on the benefits and costs for small entities of the proposals under consideration, is included in Appendix B of this Panel Report.

3.1 Institutional Coverage

- Currently, whether a FI is covered by Regulation C and required to report HMDA data is determined by reference to complicated coverage tests based on assets, loan volume, geographic location, and whether the FI makes loans that are federally related. The institutional coverage tests differ depending on whether the FI is a depository institution ("DI") or nondepository institution ("non-DI").

- Many critics of the current requirements have pointed to the coverage tests as an area of complexity in need of clarification and simplification. Commenters in public hearings on potential revisions to Regulation C that were held by the Federal Reserve Board in 2010 noted that the existing coverage scheme creates an unlevel playing field for FIs. In some instances, small community banks and credit unions making few mortgage loans—or even one mortgage loan—per year are subject to HMDA reporting requirements, while non-DIs making substantially more loans may not be covered at all. Currently, non-DIs may not be covered by Regulation C if they made fewer than 100 loans in the previous year.

  - To simplify the coverage tests, the CFPB is considering proposing a single, consistent minimum loan volume threshold for HMDA coverage for both DIs and non-DIs.

  - The CFPB is considering a threshold of 25 closed-end home purchase and refinance mortgage loans, but plans to continue to conduct outreach on whether some other threshold may be more appropriate.

  - The CFPB also is considering what types of loans should count towards the 25-loan threshold, including home equity loans ("HELs"), home equity lines of credit ("HELOCs"), and reverse mortgages.

  - The CFPB's preliminary view is that a 25-loan test would benefit DIs that are not significantly involved in originating dwelling-secured loans, but meet the statutory asset threshold.[8]

Alternative Considered: Institutional Coverage

- The CFPB also considered a higher loan-volume threshold, such as a 50- or 100-loan threshold. However, the CFPB is concerned that a higher threshold would result in the elimination of data that is important in fulfilling the purposes of HMDA.

3.2 Transactional Coverage

- Current Regulation C generally requires FIs to report information regarding loans and applications made for one of three purposes: home purchase, home improvement, or refinancing. Reporting of HELOCs used for these purposes is generally optional.

  - Under the existing transaction reporting regime, certain loans that are secured by residential real property need not be reported (e.g., HELs with no stated purpose, HELOCs, certain reverse mortgages). On the other hand, home improvement loans must be reported even if they are not secured by a dwelling.

- The CFPB is considering proposing a requirement that FIs report information concerning all dwelling-secured loans, rather than tying transactional coverage primarily to the purpose of the loan. For FIs that meet the institutional coverage tests, this proposal would, in effect:

  - Eliminate reporting of home improvement loans that are not secured by a dwelling;

[8] DIs with assets of $43 million or less as of December 31, 2013, are exempt from collecting HMDA data in 2014. 78 FR 79285 (December 30, 2013).

  - Capture all, not just some, HELs;

  - Capture all HELOCs by eliminating optional reporting; and

  - Capture all, not just some, reverse mortgages.

- The dwelling-secured test for reporting would apply to applications for loans to be secured by a dwelling, as well as to loans and purchases of loans secured by a dwelling. The Regulation C definition of "application" has been criticized as providing FIs with too much latitude to decide which contacts with consumers to report as applications. The CFPB stated that it currently was disinclined to revise the definition of application, but intended to seek specific suggestions regarding any aspect of the definition that may benefit from greater clarity.

3.3 Privacy

- HMDA requires that FIs make their Loan Application/Registers ("LARs") available to the public upon request, in a form required by the CFPB's regulations. Congress has also directed the CFPB to take steps to protect the privacy interests of applicants and borrowers as appropriate and consistent with the statute's disclosure goals.

  - The information that FIs publicly disclose pursuant to HMDA and Regulation C does not include personal information that directly identifies individuals, such as name, address, date of birth, or Social Security number.

  - Even without personal information that directly identifies individuals, if all unedited information reported on the LAR were publicly disclosed, some information could potentially be used to identify individual applicants and borrowers and possibly harm their privacy interests.

- The CFPB stated that it recognizes that mitigating privacy risks in the HMDA data may decrease the utility of the data to users and is investigating strategies and techniques to protect consumer privacy while maximizing the data's utility. The CFPB is considering:

  - The use of various statistical disclosure limitation techniques, such as techniques aimed at masking the precise value of data points, use restrictions, and a restricted access program.

  - Proposing that FIs continue to report loan amount and income rounded to the nearest thousand and to delete the three fields currently deleted before the LAR is made public.

  - Proposing that FIs delete or otherwise modify additional data points on the modified LAR that may raise privacy concerns, including credit score and age.

3.4 Data Points

For each application, originated loan, or purchased loan, a FI currently reports on its LAR approximately 2 dozen separate pieces of information, or data points. The CFPB is considering: improvements and technical revisions to current Regulation C data requirements; the implementation as required or appropriate of new information specifically identified in the Dodd-Frank Act; and the addition of other data points that target existing gaps in the information currently collected and that would further the purposes of HMDA. A table of the current data points and new data points under consideration by the CFPB is included on pages 14 and 15 of the Outline in Appendix B.

3.4.1 Unique Identifiers

- The Dodd-Frank Act calls for the creation or enhancement of certain unique identifiers ("identifiers" or "IDs") that could further the purposes of HMDA and, through better integration of the loan data currently available, address some of the data gaps and risk management failures that were exposed in the recent mortgage crisis. Being able to identify, label, and track key characteristics of a mortgage loan across various systems will further the purposes of HMDA.

- The CFPB is considering the following proposals and alternatives related to unique identifiers, as it is generally directed to do by the Dodd-Frank Act:

    - *Entity Identifier*. Replacing the current HMDA Respondent/Reporter ID ("HMDA RID") with an entity identifier that would facilitate identification of the corporate entity and its affiliated companies and parent/subsidiary relationships, or expanding and defining new requirements for the current HMDA RID to accomplish the same purpose.

    - *Loan Identifier*. Revising the current loan ID requirement to create a unique loan identifier to facilitate tracking a loan through its lifecycle across multiple platforms (e.g., servicing, foreclosure database).

    - *Loan Originator Identifier*. Requiring reporting of the unique identifier number provided under the Nationwide Mortgage Licensing System and Registry ("NMLSR") for the employee who took the application or originated the loan.

    - *Property Identifier*. Requiring reporting of a unique identifier for each property (such as the address or geospatial coordinates) to facilitate identification of properties across multiple platforms and, thus, potentially reduce geocoding burden. Currently, FIs generally report the census tract, county, state, and metropolitan statistical area ("MSA") or metropolitan division ("MD") in which the property is located.

3.4.2 Application Data

- HMDA data currently includes some data about applications and how they were resolved.

- The CFPB is considering proposing to require submission of the following additional data about the mortgage loan application process, some of which are required by the Dodd-Frank Act:

  - *Application Channel*. Whether the application was submitted through a retail, wholesale, or correspondent channel.

  - *Automated Underwriting System Results*. The name of the automated underwriting system ("AUS") used to evaluate the application and the AUS recommendation.

  - *Denial Reasons*. The reasons an application was denied. Reporting denial reasons currently is required only for certain FIs that are supervised by the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

3.4.3 Borrower Data

- HMDA data currently includes important data about applicant and borrower characteristics that are important for HMDA purposes.

- To fulfill these purposes and implement certain Dodd-Frank Act requirements, the CFPB is considering proposing to require submission of the following additional data about applicants and borrowers:

  - *Age*. The age of applicants and borrowers.

  - *Credit Score*. The numerical credit score for applicants and co-applicants used to make the credit decision.

  - *Debt-to-Income Ratio* ("DTI"). The DTI relied upon by the FI in processing the application.

3.4.4 Loan Types

- The CFPB has stated that distinguishing different types of loans is important to analyzing HMDA data and in reviewing loans with similar characteristics. The CFPB has also stated that the ability to distinguish loan types may be even more necessary if it requires FIs to report all dwelling-secured loans.

- The CFPB is considering proposing to require submission of data that could permit more consistent identification of the following loan types:

- *Cash-Out Refinancing*. Providing a separate identification of refinancing transactions where the borrower takes out equity.

- *HOEPA Status*. Revising the existing field to specify whether the loan is covered by the Home Ownership and Equity Protection Act ("HOEPA") because of points and fees, Annual Percentage Rate, or both.

- *Qualified Mortgage Status*. Identifying whether the FI classified the mortgage as a Qualified Mortgage.

- *HELOC*. Requiring an indicator for HELOCs.

- *Reverse Mortgage*. Requiring an indicator for reverse mortgages.

3.4.5 Loan Features

- The CFPB has stated that a common criticism of HMDA prior to the Dodd-Frank Act was that FIs were not required to report enough detail about loan features to identify risky products. The CFPB believes that additional information about loan features would provide a clearer picture of how FIs are serving their communities and would facilitate analyzing loans with similar terms.

- As required by the Dodd-Frank Act, the CFPB is considering proposing to require submission of the following data related to loan features:

  - *Loan Term*. The maturity term of the loan in months.

  - *ARM Introductory Term*. The term in months of the initial fixed interest rate period for an adjustable rate mortgage.

  - *Prepayment Penalty Term*. The term in months of any prepayment penalty.

  - *Balloon Payments, Interest-Only Payments, and Negative Amortization*. Indicators for the presence of features related to loan amortization.

3.4.6 Loan-to-Value Ratio

- The CFPB has stated that loan-to-value ratio ("LTV") is an important underwriting and pricing consideration because it measures the adequacy of the collateral to support the loan.

- The CFPB is considering proposing to require submission of the following data related to LTV:

  - *Property Value*. The value of the residential property related to the loan. Reporting property value is required under the Dodd-Frank Act and will allow calculation of LTV when combined with loan amount (which is currently reported).

- *Combined Loan-to-Value* ("CLTV"). The ratio of the combined unpaid principal balance of multiple loans to the property value, using the amounts relied upon by the FI in processing the application.

3.4.7 Pricing Data

- The CFPB has stated that, similar to the information on loan features, the pricing information collected under Regulation C prior to the Dodd-Frank Act (rate spread for higher-priced mortgage loans and a HOEPA flag) had been criticized as inadequate to serve HMDA's purposes.

- To address what the CFPB has characterized as the inadequacy of current pricing data, the CFPB is considering proposing to require submission of the following data points, several of which are required by the Dodd-Frank Act:

  - *Rate Spread*. The rate spread for all loans, not just those that exceed the threshold for higher-priced mortgage loans (as is currently required).

  - *Total Points and Fees*. Total points and fees as defined by Regulation Z.

  - *Total Origination Charges*. Total origination charges paid by the borrower to the creditor and loan originators at or before closing, as disclosed under Regulation Z.

  - *Total Discount Points*. Total points paid by the borrower to reduce the interest rate, as disclosed under Regulation Z.

  - *Interest Rate*. The borrower's interest rate after applying discount points.

  - *Risk-Adjusted, Pre-Discounted Interest Rate*. The rate that would have been available to the borrower with zero (or the closest-to-zero) discount or premium.

3.4.8 Property Data

- Regulation C currently requires FIs to record the property type to which a loan or application relates. Appendix A to Regulation C provides three reporting values, or enumerations, for this information: (1) one- to four-family dwelling (other than manufactured housing); (2) manufactured housing; and (3) multifamily dwelling.

  - The CFPB has stated that this information has been criticized as inadequate to understand the underwriting and pricing of manufactured and multifamily home loans, as distinct from site-built single-family housing.

  - The CFPB believes that reporting of financed unit count and construction method type could facilitate a more robust analysis of multifamily housing and provide an opportunity to clarify certain aspects of manufactured housing reporting.

  - This information is collected by Fannie Mae and Freddie Mac under established industry standards, so the CFPB believes that replacing the existing reporting requirement with better targeted data reporting could also streamline reporting by many FIs.

- The CFPB is considering proposing requiring the following data related to property:

  - *Financed Units Count/Construction Method*. Replacing the existing property type data point with a requirement to report data on the number of units financed and construction method (such as manufactured or site-built).

  - *Manufactured Housing Details*. Requiring reporting whether a manufactured home loan is secured by real property or personal property, and whether the borrower owns or rents the underlying land.

  - *Multifamily Affordable Housing*. Requiring reporting whether multifamily properties have affordable housing deed restrictions.

3.5 Alignment with Industry Data Standard

- Currently, data points reported on each LAR entry are defined by Regulation C, its appendices, and the official commentary. FIs must submit the data in automated, machine-readable format that conforms to the LAR format, except for institutions that report 25 or fewer entries, which may submit their LAR entries in paper format.

- FIs maintain records of mortgage loan originations and applications in many forms and many systems other than those used for HMDA reporting. In many cases, these systems use data points or define data points in ways that differ from Regulation C requirements. As a result, those systems may not be directly compatible with the HMDA LAR format, so that FIs may have to use additional software and modify data in existing systems in order to submit HMDA LAR data in the proper format.

- The CFPB is considering proposing aligning the HMDA data requirements with the widely used Mortgage Industry Standards Maintenance Organization ("MISMO") data standards for residential mortgages to the greatest extent practicable.[9]

[9] MISMO is a nonprofit mortgage technology standards body that has developed residential mortgage data standards for industry and other use. http://www.mismo.org/default.htm.

- The CFPB believes that Regulation C compliance and data submission can be made easier by aligning the requirements of Regulation C to existing industry standards for collecting and transmitting data on mortgage loans and applications.

- The CFPB believes that promoting consistent data standards for both industry and regulatory use has benefits for market efficiency, market understanding, and market oversight.

3.6 Modernizing HMDA Data Process

- The CFPB understands that many steps in the HMDA data collection, submission, and reporting process are burdensome for FIs, especially small FIs, and believes that the process can be modernized to streamline some of the areas FIs find particularly difficult.

- The CFPB is consulting with other Federal agencies about how to facilitate improvements to the HMDA process:

3.6.1 Geocoding

- Geocoding involves identifying the appropriate census tract, MSA or MD, county, and state for the property associated with the reported application or loan.

- The Federal Financial Institutions Examination Council ("FFIEC") website provides a free geocoding tool, but this tool only permits the entry of one address at a time and is not integrated with the free HMDA data entry software ("DES") or with commercially available HMDA management software ("HMS"). Users must manually input the information retrieved from the geocoding tool into the DES for submission.

- FIs also have noted problems associated with geocoding difficult addresses, such as those associated with new subdivisions, or where census tracts may have changed.

- The CFPB is considering whether it could shift some of the burden of geocoding from FIs to the government. For example, Regulation C could require FIs to report property addresses and geocoding could become an operation shared with or performed by the government.

3.6.2 Web-Based Data Submission Tools

- The FFIEC currently provides free downloadable HMDA DES for submitting HMDA data, but a new version of the software is developed each year and must be downloaded for each year's HMDA submission.

  - The software is not network-capable, and must be installed locally on individual hard drives.

- The free HMDA DES also does not currently integrate with vendor HMS.

- The CFPB is considering proposing to develop a new DES that is web-based, so that it accommodates multiple users and network capability and would not require updating by FIs.

- The CFPB is also considering proposing to support integration by releasing an application programming interface, or API, which would allow developers to integrate their HMS with government HMDA systems.

3.6.3 Submission and Editing Process

- Currently, the HMDA data submission process involves pre- and post-submission quality, validity, and syntactical edits from the government processor which note potential errors or inconsistencies in the data.

- The CFPB is considering how to make the edits process more efficient, such as by refining the edits to correspond to the data reported and integrating edits into an improved web-based HMDA DES.

3.6.4 Technical Assistance

- The CFPB is reviewing how it might facilitate improvements in the existing HMDA guidance and HMDA technical help process.

4. APPLICABLE SMALL ENTITY DEFINITIONS

In its Outline, the CFPB addressed the potential impact of the proposals on small entities as required under the RFA. The RFA defines "small entities" to include small businesses, small nonprofit organizations, and small government jurisdictions.[10] A small business is determined by application of SBA regulations and by reference to the North American Industry Classification System classifications and size standards.[11] A small organization is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.[12] A small governmental jurisdiction is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000.[13]

[10] 5 U.S.C. 601(6).

[11] "Small business" is defined in 5 U.S.C. 601(3). The current SBA small-business size standards are found on SBA's website at http://www.sba.gov/content/table-small-business-size-standards.

[12] 5 U.S.C. 601(4).

[13] 5 U.S.C. 601(5).

5. SMALL ENTITIES THAT MAY BE SUBJECT TO THE PROPOSALS UNDER CONSIDERATION

The CFPB identified three categories of small entities that may be subject to the proposals under consideration for purposes of the RFA. All three categories are small businesses and are FIs that could have to comply with the potential revisions to Regulation C. The categories and the SBA small entity thresholds for those categories are:

CATEGORY	THRESHOLD FOR "SMALL"
Commercial Banks[14]	$500,000,000 in assets
Credit Unions	$500,000,000 in assets
Mortgage Companies (i.e., nondepository mortgage lenders)	$35,500,000 in revenue

6. SUMMARY OF OUTREACH TO SMALL ENTITIES

6.1 Panel's Outreach Meetings with SERs

On February 7, 2014, the CFPB sent to each of the SERs the Outline and other materials described in Appendix B as "Materials for March 6, 2014, Meeting with Panel." In addition, the CFPB posted these materials on its website and invited the public to email feedback on the materials.

The CFPB formally convened the Panel on February 27, 2014. Prior to the formal convening, the SBA hosted an introductory teleconference with all SERs on the general SBREFA process and the Panel participated in two additional sets of teleconferences with small groups of the SERs on February 20, 2014, and February 25, 2014. In the small-group teleconferences, the CFPB reviewed the SBREFA materials for the HMDA rulemaking generally and reviewed for the SERs: how the CFPB reviewed business operations to develop its preliminary benefits and costs analysis; how an industry data standard (specifically standards developed by MISMO) could be employed in HMDA compliance; operational improvements being considered by the CFPB that could make HMDA reporting easier, but would not necessarily require rulemaking; and how the CFPB was thinking about one-time costs associated with the proposals under consideration.

The preliminary meetings helped prepare the SERs and the Panel for a discussion of the specific proposals under consideration in the Panel's full-day outreach meeting with the SERs March 6, 2014, in Washington, DC (the "Panel Outreach Meeting"). The participants used the February 20th and 25th teleconferences to discuss 18 operational steps identified by the CFPB that FIs use to gather and report data under HMDA,[15] proposals to modernize HMDA

[14] The categories of commercial banks and savings institutions are combined under the label "commercial banks."

[15] *See* Section 8.1 of the Panel Report.

operations, use of an industry data standard, and the one-time costs of complying with the proposals under consideration. In light of the feedback received from the SERs in the teleconferences, the SERs and Panel were able to focus more on coverage and data point requirements during the Panel Outreach Meeting. The PowerPoint slides used to guide the February 20th and 25th discussions are attached as Appendix D.

The CFPB also provided the SERs with an opportunity to submit written feedback until March 20, 2014. The CFPB received written comments from 15 of the SERs and shared that feedback with the other members of the Panel. Copies of the SERs written comments are attached as Appendix A.

6.2 Other Outreach Efforts, Including to Small Entities

In addition to convening the SBREFA process, the CFPB has organized and has indicated that it will continue to organize extensive outreach efforts to community groups; other regulators; industry participants; organizations representing industry members, including small entities; and other interested persons regarding the rulemaking to implement the Dodd-Frank Act changes to HMDA and make other changes to Regulation C that are under consideration by the CFPB. CFPB staff also regularly engages with other government agencies interested in mortgage data standards through the MISMO Government Forum.

In conjunction with the development of the proposals under consideration, the CFPB reviewed the current HMDA compliance systems, processes, and costs of FIs. The review used a cost-accounting case-study methodology and is discussed in Section IV of the Outline included in Appendix B of this Panel Report. The review was conducted, in part, through interviews with 20 FIs of various sizes, 9 vendors, and 15 governmental agency representatives. Nine of the 20 FIs interviewed were small depository institutions under the applicable SBA small business size standards. The review also provided the CFPB with tools for analyzing the impacts of the proposals under consideration, as described further in Section IV of the Outline. The business-process assumptions developed by the CFPB from this review of FI HMDA operations provided the bases for the CFPB's impact analysis methodology in the Outline, were largely validated in the preliminary small-group discussions with the SERS, and were generally confirmed in the Panel Outreach Meeting.

7. LIST OF SMALL ENTITY REPRESENTATIVES

The following 20 SERs were selected to participate in the HMDA SBREFA Panel process:

NAME	BUSINESS NAME/LOCATION	
Jim Ryan	JM Associates Credit Union	Jacksonville, FL
Laura Phillips	Alabama Teachers Credit Union	Gadsden, AL
Jane Hammil	Wichita Federal Credit Union	Wichita, KS
Garth Griese	Service One Credit Union	Bowling Green, KY
Dallas Bergl	Inova Federal Credit Union	Elkhart, IN
Robert Aresti	360 Federal Credit Union	Windsor Locks, CT
Teresa Whitehead	Citywide Home Loans	Salt Lake City, UT
Sheila Strong	AmeriFirst Financial Corporation	Portage, MI
Christina Rhea	Mortgage Investors Group	Knoxville, TN
Cody Pearce	Cascade Financial Services	Gilbert, AZ
George Light	Home Savings & Trust Mortgage	Fairfax, VA
Mark Williams	Pendleton Community Bank	Franklin, WV
Melinda White	Bank of Zachary	Zachary, LA
Jeff Schmid	Fox River State Bank	Burlington, WI
Tom Rasmussen	New Windsor State Bank	Tawneytown, MD
Paul Jarosz	Oxford Bank & Trust	Oak Brook, IL
Jeremy Gray	Rock Canyon Bank	Pleasant Grove, UT
Rachael Chosnek	Security Federal Savings Bank	Logansport, IN
Rhonda Castaneda	The Bank of Fayette County	Collierville, TN
Anne Byrd	Seattle Bank	Seattle, WA

The SERs were selected from the following three industry categories

- Credit Unions (6 SERs)
- Mortgage Companies (5 SERs)
- Commercial Banks (9 SERs)

The SERs came from the following geographic regions:

- Northeast and Mid-Atlantic (2 SERs)

- Midwest (6 SERs)
- South (8 SERs)
- West and Southwest (4 SERs)

The SERs came from the following types of localities:

- Areas with populations of less than 20,000 (4 SERs)
- Urban/suburban areas, populations less than 500,000 (10 SERs)
- Urban/metropolitan areas, populations of more than 500,000 (6 SERs)

8. SUMMARY OF SMALL ENTITY REPRESENTATIVE COMMENTS

This Chapter summarizes the feedback provided by SERs during the two premeeting teleconferences and the Panel Outreach Meeting, and in written comments submitted after the Panel Outreach Meeting.

As detailed below, the SERs generally were receptive to the CFPB's proposals to modernize and streamline the HMDA data collection and reporting processes, but expressed some concerns about the proposals under consideration to add new data points to the HMDA reporting requirements. A number of SERs stated that while they welcome balanced and reasonable regulation, there is concern that some small FIs may find all of the new mortgage rules issued under the Dodd-Frank Act financially and operationally overwhelming, forcing them to merge to remain competitive, cease offering certain mortgage products, or exit the market altogether. Many SERs also stated that, as small FIs, they were not responsible for the lending practices that led to the mortgage crisis, but they are now paying for the injurious actions of larger institutions through more burdensome regulation. They asserted that market contraction resulting from increased regulation could result in fewer choices and loan products for the very individuals the CFPB was created to protect.

The SERs generally urged the CFPB to clearly define each data point and coordinate with other regulators to ensure consistent interpretations among examiners. The SERs also urged the CFPB to limit the addition of data points to those mandated by the Dodd-Frank Act and only as necessary to meet the HMDA purposes. The SERs were concerned about the burdens and costs associated with new data points, particularly those not specifically enumerated in the Dodd-Frank Act. As a group, the SERs' estimates of costs generally were close to the preliminary cost estimates that the CFPB had included in its impact analysis in Section IV of the Outline. The SERs also generally accepted as being accurate the business-process assumptions developed by the CFPB from its review of FI operations related to HMDA reporting requirements.

Some SERs expressed concern that the adoption of any new data points by the CFPB would make their FIs more vulnerable to being cited in examinations for reporting errors that may be minor, but in total exceed their regulators' tolerances for reporting accurate HMDA information. One SER noted that, while FIs may currently maintain in their files the information for the new data points under consideration, the cost of getting the data right and the consequences of getting them wrong could make FIs think twice before offering HMDA-reportable loans. SERs opined that the increase in data points should be accompanied by increased tolerances for errors by their regulators.

8.1 HMDA Reporting: 18 Operational Steps

In conjunction with the development of the proposals under consideration, the CFPB reviewed the current HMDA compliance systems and activities of FIs of various sizes. Initial outreach efforts identified 18 operational steps that FIs use to gather and report data under HMDA (Table 2 on page 29 of the Outline lists the 18 steps). The SERs confirmed that these 18 steps reflect their operational tasks fairly accurately. Some SERs did note minor differences regarding the timing, granularity, and completeness of the 18 steps. For example, some SERs noted that resolving questions about whether an application or a loan must be reported would be the first step instead of the second. In addition, some SERs noted that they complete all 18 steps, but that some steps are combined. One SER mentioned that rate-spread calculation and error resolution should be viewed as separate steps.

8.2 Mapping SERs to Tiers of Operations Complexity

Initial outreach efforts identified an FI's level of operational complexity as a main driver of HMDA compliance costs. To capture the relationship between complexity and cost, the CFPB developed three representative FI types, reflecting low, medium, and high levels of complexity. The CFPB defined complexity based on seven dimensions: systems, integration, automation, geocoding, completeness checks, edits, and compliance program. For the impact analysis, the CFPB then developed a unique set of assumptions and cost estimates for each FI type.

The SERs confirmed that the seven dimensions accurately capture FIs' levels of complexity. Most SERs also noted that their business models corresponded fairly closely to one specific tier. Nine SERs identified as Tier 3 (least complex), seven SERs identified as Tier 2 (moderately complex), two SERs identified as a combination of Tiers 2 and 1 (moderate and highly complex), and the remaining SERs did not identify a tier.

8.3 Preliminary Cost Data

In response to the CFPB's request for cost data associated with current Regulation C and the changes under consideration, some SERs provided in their written comments data on both the baseline costs of their current HMDA operations and their anticipated cost increases due to the possible proposals. The level of details and focus of the information that the SERs provided varied greatly. Some SERs provided cost breakdowns by hours spent and the relevant wage rate on each of the 18 steps as set out in the Outline, while other SERs provided only aggregate numbers of the estimated current costs and the potential increase in those costs. Some SERs chose to focus on only certain aspects of the proposals under consideration and did not provide overall cost numbers. The CFPB is continuing to research and analyze the potential costs of the proposals under consideration, including by using the information provided by the SERS and gathered through outreach to other stakeholders.

For SERs that reported on ongoing operating costs, their estimates were largely in line with the CFPB's estimated baseline cost per application under existing Regulation C of about $45 per application for Tier 3 FIs and $30 per application for Tier 2 FIs. For example, two

Tier 3 FIs reported operating costs of $42 and $44 per application. One Tier 3 FI reported costs of $12 per application and another Tier 3 FI reported costs of $24. Another Tier 3 FI did not provide a specific dollar amount, but based on its reported hours required, the CFPB estimated that FI's ongoing cost to be about $50 per application. There was one outlier, with one SER reporting current costs at $225 dollars per application. However, there were factors particular to this SER that may explain this divergence, such as a very small LAR size and mostly commercial lending, potentially placing the SER at the very high end of the cost-per-application spectrum among all HMDA reporters. Most of the Tier 2 and Tier 1 SERs reported a cost per application that is smaller than Tier 3 FIs, ranging from $10 to $25. The CFPB has estimated a $5 cost per application for Tier 1 FIs. The CFPB notes that, because FIs differ greatly in their operating models, cost structure, and business size, in order to best estimate the impact of the proposals under consideration, the CFPB must apply certain stylized analyses and focus on the industry averages for representative FI types. The CFPB believes that the SERs' responses largely validated its preliminary estimates of the ongoing costs of HMDA compliance.

There was more variation among the SERs' estimates of the potential cost impact of the proposals under consideration. Most SERs did not provide specific estimates of the overall cost impact, perhaps due to the uncertainty about which proposals under consideration will ultimately be included in the rulemaking. Of the SERs that provided estimates, one Tier 3 FI reported an estimated cost increase of $7 over the current cost of $24 per application, or about a 29 percent increase. A Tier 1 FI reported an estimated cost increase of about $3 over the current cost of $10 per application, which is similar to the percentage increase estimated by the Tier 3 FI. On the other hand, two Tier 2 SERs estimated the cost increase per application could be over 100 percent. The CFPB has estimated increases in average per-application costs would be roughly $25 for Tier 3 institutions, $5 for Tier 2 institutions, and $1 for Tier 1 institutions.

Many SERs stated during the Panel Outreach Meeting that it would be difficult to estimate the one-time cost of the changes because of the uncertainty of the proposals at this stage in the rulemaking. Consistent with that discussion, only one SER (Tier 3) provided a written comment that included an estimated one-time cost, which was $4,500. Some other SERs briefly mentioned the one-time costs in their written comments, but did not provide specific numbers or detailed explanations.

8.4 Institutional Coverage

- Threshold Count. SERs generally recommended that the CFPB raise the proposed loan threshold of 25 originated loans to a higher number. They recommended thresholds ranging from 100 to 500 loans. One SER encouraged the CFPB to exempt as many small institutions as possible. Another SER urged the CFPB to set the threshold at 100 loans, suggesting that an FI originating fewer than 100 loans would not produce enough data for a meaningful fair lending test, but would nonetheless be required to invest in the staff, software, and training necessary to manage the increased reporting requirements.

- Loans Included in Threshold Count. Several SERs requested clarification on which loan types would count towards the threshold. One SER stated that including HELs and HELOCs in a lower threshold would skew HMDA data. However, another SER stated that all reportable loans should count towards the threshold, including HELOCs. One SER urged the CFPB to clarify whether the threshold count would be based on individual transactions or related transactions (i.e., a transaction involving multiple loans would count towards the threshold only as one). Another SER suggested that the CFPB consider a 2-year look back period for purposes of determining whether an FI meets the threshold and must begin compiling and reporting its data.

8.5 Transactional Coverage

- Commercial Loans. Many SERs suggested that commercial loans be exempted from HMDA reporting, explaining that such loans are income-producing investments and are unrelated to HMDA's purpose of meeting the housing needs of the community. The SERs generally stated that commercial loans are a separate line of business from residential loans and are handled by separate staff using different systems and processes than what are used for residential loans. One SER suggested that the CFPB limit reporting of commercial loans to those where the loan proceeds are used to purchase, refinance, or improve residential housing projects. Several SERs also noted that many of the existing and proposed data fields do not apply to commercial loans and questioned the utility of a dataset heavily populated with nonresponses (e.g., "NA"). Additionally, SERs noted that other consumer protections do not apply to commercial loans, and asserted that reporting these fields distorts HMDA data generally. One SER stated that the burden of reporting a commercial loan is 50 percent greater than reporting for a consumer loan because of the difficulty in determining initially whether HMDA applies.

- HELOCs. Some SERs suggested that the CFPB exclude HELOCs from HMDA reporting; alternatively, if HELOCs are included, the loan-volume threshold for reporting should be increased. One bank SER stated that requiring reporting of HELOCs will increase its reporting costs from $12,000 to $14,500. One credit union SER stated that expanding loan types to include HELOCS would have increased its costs by $2,939 this past reporting period.

- Other Loans. SERs also urged the CFPB to exclude from HMDA reporting home improvement loans, unsecured loans, and loans made to bank employees, citing concerns regarding cost efficiency and privacy. One SER suggested that only loans secured by real property should be reported.

- Coverage of Applications. One SER recommended that the CFPB apply the newly adopted TILA-RESPA definition of "application" to Regulation C. However, another SER was concerned that, if the TILA-RESPA definition is used to determine when HMDA data must be reported, the FI may not have collected all of the reportable data by the application date.

    - One SER suggested that the CFPB make allowances for denied or withdrawn applications for which an FI does not report all of the HMDA data.

- Some SERs stated that some of the new data points would be difficult to report for preapprovals. One SER stated that geocoding would be a challenge because a property may not have been identified at the time of the preapproval. Another SER urged the CFPB to be aware of technical and operational challenges related to preapprovals that may negatively impact FI examinations.

8.6 Data Points

As noted above, most SERs expressed concerns about costs associated with the CFPB's proposals to require reporting of additional data points. Some SERs stated that additional data points would require more employee resources and that smaller FIs, particularly those in less populated areas, already struggle to find qualified compliance personnel. A number of SERs stated that the more information the FIs have to collect, the less time the small FIs have to help their customers get into affordable housing. One SER noted that it may not be productive to make certain loans because of the reporting obligation. In addition, many SERs were concerned about the potential impact on fair lending examinations, asserting that any additional data points would increase the potential for reporting errors that exceed established violation tolerances and for related penalties. To control costs, SERs urged the CFPB to limit the new data points to those expressly required by the Dodd-Frank Act, and to provide clarity and guidance to assure consistency in interpretations among both regulatory agencies responsible for collecting and auditing the data and their examination staff.

For additional background about specific CFPB data point proposals under consideration, see the Outline that is included in Appendix B of this Panel Report.

8.6.1 Unique Identifiers

- Entity Identifier. SERs generally supported the proposal to require a unique entity identifier for HMDA reporters, although there was no consensus on an appropriate source for the identifier. A few SERs expressed reservations about using the RSSD ID number, which currently are assigned to depository institutions and their affiliate non-DIs and are managed by the Board, as the identifier. One bank SER stated that the RSSD ID number may be an issue when purchasing a branch. This SER preferred the option of the G-20 Legal Entity Identifier ("LEI") global standard, but was concerned about cost. Another SER suggested using the reporting institution's NMLSR ID as the unique entity identifier.

- Loan Identifier. SERs expressed concern about the proposal to require a unique loan ID, positing that it would be a challenge to implement. One SER opposed the proposal outright. Others expressed concern that an option of a bar code system could be duplicative, costly, or extremely burdensome to implement. One SER stated that it would be difficult to reach industry consensus on the best approach for loan IDs and that longer identification numbers would increase chances for data errors.

- Loan Originator ID. SERs generally supported the proposal to require the NMLSR ID for the loan originator involved in the transaction. One SER noted that the information is already collected on RESPA forms, but urged the CFPB to specify clearly when the ID must be provided. Another SER, however, expressed concern about the privacy interests of loan originators, as well as about the potential unmerited negative impact on loan originators who are identified with a significant number of loans that fail for reasons other than inadequate underwriting.

- Parcel ID. Some SERs stated that collecting a parcel ID for every application would be burdensome and time-consuming for FIs. Some SERs were concerned that reporting the parcel ID would create risk that borrowers could be identified. Two SERs noted that their FIs currently collect the parcel ID for closed loans and that it would be burdensome to collect the parcel ID for withdrawn or denied applications. Some SERs have experienced challenges obtaining a property address, particularly in rural areas and new residential developments. One SER stated that a parcel ID is not available for every property type, and that parcel numbers associated with manufactured homes are not uniform across the country. Several SERs stated that the parcel ID in their systems is not exportable and would have to be manually transcribed, which is costly and prone to errors. Some SERs stated they would prefer to continue to report census tract data instead.

8.6.2 Application Data

- Application Channel. SERs generally opposed the proposal to require reporting of the application channel for the loan. One SER stated that the information is not currently collected and would require additional training if it is mandated. One bank SER noted that many community banks have wholesale operations and that not all transactions fall into one channel. One mortgage company SER stated that the company does correspondent lending and the SER suggested that the CFPB designate a category for "underwritten correspondent loans."

- Automated Underwriting System Results. A number of SERs expressed concern that, if FIs are required to report AUS results, there would be an increase in the "false positive" indicators of fair lending violations. SERs were particularly concerned about AUS results that do not align with the action taken for reasons unrelated to underwriting, and the potential costs and bad press experienced as a result. A number of SERs also questioned the value of AUS information and whether the HMDA purposes the information would serve could be realized in other ways.

- Denial Reasons. Some SERs expressed concern about mandatory reporting of denial reasons, particularly where there are multiple reasons for a denial. In such instances, one SER was concerned that the HMDA LAR may not provide the full picture, while another noted that manual entry of the reasons would be required. Another SER suggested an "other" category if FIs are required to report denial reasons. One SER supported reporting of denial reasons, citing its importance for fair lending analysis.

- Application Date. Several SERs explained that commercial and consumer loans are handled by different groups within their companies and that it can be particularly difficult to ascertain the application date for commercial loans.

8.6.3 Borrower Data

- Age. SERs generally were concerned about reporting age because age is not static and there are privacy issues associated with that information. Some SERs noted that the date of birth is already collected, but converting it to age would require additional work and increase the possibility of errors. Some SERs suggested that the CFPB clarify at which point in the mortgage loan process age would be determined. One SER suggested that the applicant's age at the time of application be reported. A number of SERs suggested reporting age in ranges (e.g., 20-49, 49-62, 62 and up) to mitigate privacy concerns. One SER noted that age is not applicable to business loans.

- Credit Score. SERs emphasized that there are wide variations in the types and source of credit scores used in credit decisions and that any requirement to report credit score would have to account for these variances. One SER suggested adding a global default for the type of credit score that is used, which could then be edited as necessary for individual loans. Another SER stated that the CFPB should clarify which credit score must be used. Some SERs suggested requiring the credit score to be expressed in ranges in order to protect applicant and borrower privacy interests.

- Debt-to-Income Ratio. The SERs generally agreed that the DTI is complex and that calculating DTI is time-consuming. In addition, the SERs noted that DTI is not always used in making the credit decision.

    - SERs whose FIs do not rely on DTI generally stated that the requirement to report DTI would be burdensome, especially if the requirement is to use the Qualified Mortgage ("QM") rule formula for calculating the ratio. However, one SER encouraged the CFPB to use the QM definition for calculating DTI. Another SER stated that a prescribed formula would require manual input, which would be very costly.

    - A few SERs stated that they do not calculate front-end DTI and encouraged the CFPB to require only back-end DTI. One SER stated that the FI calculates DTI differently for commercial loans than for consumer loans, so that additional training would be required.

    - SERs generally did not believe that DTI would be helpful for avoiding false positives in fair lending analyses. One SER noted that a CFPB-prescribed calculation would increase compliance costs, while permitting FIs to select their calculation methodology would result in inconsistencies across the industry. Others recommended using the DTI relied upon by the FI. Some SERs noted various issues that could arise in identifying the DTI relied upon for the credit decision, especially when the loan was denied or withdrawn. One SER suggested that reporting DTI would present a privacy concern because the DTI may reveal information about a borrower's financial condition. This SER suggested that the CFPB postpone implementing the DTI requirement because of this privacy concern.

- <u>Gross Annual Income</u>. SERs generally stated that there is ambiguity surrounding what should be reported for this data point currently in Regulation C and recommended that the CFPB clearly define the requirement. A few SERs noted particular difficulty with establishing gross annual income for business loans because of the technical differences between income and cash flow. One SER stated that the FI had developed a formula in an effort to be consistent. SERs stated that there are no differences in calculating income for investor purposes and for HMDA purposes.

- <u>Government Monitoring Information ("GMI") (*ethnicity*, *race*, *and sex*)</u>. One SER urged the CFPB to eliminate the requirement to record GMI for in-person applications when the customer declines to specify the information. The SER noted that while the GMI data are vital to HMDA's utility, recording GMI on the basis of visual observation is highly subjective and puts FIs in the position of overriding the wishes of applicants who choose not to provide this information. The SER also stated that FI staff spend an average of 3 hours following up with loan officers when this data is not reported in the files.

8.6.4 Loan Types

- SERs generally did not oppose reporting the loan type for HMDA-reportable loans, although there were concerns about potential fair lending and data integrity issues for certain loan-type data points.

    - <u>Qualified Mortgage Status</u>. One SER stated that a QM flag would be necessary if DTI is required, in order to avoid the data being skewed. Another SER was concerned about having to resubmit data if the reported QM status is later determined to be incorrect, resulting in costs for resubmissions and possible data accuracy violations and related enforcement actions. Some SERs were concerned that the data would be used for fair lending analyses, even though they believed this would be contrary to joint interagency guidance provided when the QM rule was issued. One SER offered that the better question to ask is whether the FI assesses the borrower's ability to pay.

- Home-Equity Line of Credit. As a separate issue from the coverage of HELOCs, SERs did not express any concerns about the burden of flagging HELOCs on the HMDA LAR.

- Reverse Mortgage. Two SERs commented that flagging reverse mortgage loans would not be a problem, although one SER suggested including "no" as a default response if this data point is included. One SER stated that it does not originate reverse mortgages.

- Loan Purpose. SERs generally stated that home improvement loans are burdensome to report. SERs stated that the amounts of these loans are small and that compliance costs can make the transaction unprofitable. One SER stated that it can be burdensome to obtain from the consumer how the loan proceeds will be used, and another SER noted that an examiner may have a conflicting opinion about whether a loan is for home improvement.

8.6.5 Loan Features

- Loan Term. One SER noted that loan term information is not available for denied or withdrawn loans. Another SER stated that it would be difficult to provide the data for HELOCs because the maturity date may vary depending on when subsequent draws are made after the first draw of funds. Another SER urged the CFPB to develop a consistent definition of the data point, but did not have a preference for whether the term is expressed in months or years.

- ARM Introductory Term. One SER encouraged the CFPB to adopt the Regulation Z definition of introductory term. One SER expressed some concern about how to measure the introductory term for products where the borrower controls the introductory period, such as when a special interest rate continues to be applicable as long as the borrower meets certain conditions.

- Prepayment Penalty Term. SERs generally stated that, in today's mortgage lending environment, prepayment penalties are only assessed on commercial loans. One SER noted that the prepayment penalties on the FIs commercial loans currently are tiered according to when the loan is paid off and are manually calculated at the time of payoff. One SER suggested clarifying what the data point would mean for HELOCs where the FI does not charge up-front fees but may charge a fee if the HELOC is paid off within a few years. One SER stated that the QM cap on points and fees generally precludes it from including a prepayment penalty on a loan. One SER stated that it does not currently capture this information, but does not foresee an issue collecting it.

- Nonamortizing Features (Balloon Payments, Interest-Only Payments, and Negative Amortization). The SERs collectively agreed that this information is currently collected and available, but expressed concern about adding additional data points that would increase the potential for errors and enforcement actions that become public.

8.6.6 Loan-to-Value Ratio

- Property Value. Several SERs indicated that, with some exceptions, property value is not difficult to collect, but urged the CFPB to be clear about which valuation must be reported (e.g., the valuation relied upon in making the credit decision). The SERs noted that property value may not be available for certain types of transactions, including streamline refinancings, Home Affordable Refinance Program ("HARP") loans, certain SBA loans, unsecured loans, and applications that are withdrawn. One SER suggested including a "not applicable" designation for the property value for such loans. One SER was concerned that state agencies may have different documentation requirements, and another SER was concerned that reporting this data would create re-identification risk for borrowers.

- Combined Loan-to-Value. SERs were generally concerned about inconsistent methods for calculating CLTV and urged the CFPB to provide clear guidance on how CLTV should be calculated in order to avoid reporting errors and inconsistent regulatory interpretations. One SER noted that Fannie Mae calculates CLTV differently than Freddie Mac. One SER stated that the data point would be burdensome to report and may be inaccurate if based on information in credit reports, which might be skewed. This SER also estimated that it would take 10 minutes to perform the calculation. Another SER was concerned that the data could be reverse engineered to reveal a borrower's financial condition and suggested that, if included in the proposed rule, the CFPB require aggregate reporting of this data point (e.g., CLTV 80-85%).

8.6.7 Pricing Data

- Rate Spread. One SER stated that it would be less burdensome to report the average prime offer rate ("APOR") than rate spread because APOR tables are published every week, but rate spread has to be calculated. In addition, the SER stated that APOR allows FIs to compare variables. Another SER stated that requiring the rate spread for commercial loans would be difficult because these loans do not have an APR and would require an APR substitute.

- Total Points and Fees. The SERs were generally concerned about inconsistent definitions for points and fees in Federal and State regulations, and the amount of time and resources it would take to train employees to provide the information. Some SERs noted that the lack of a standard definition would make it difficult to automate the information and favored adoption of an existing definition, such as the one used for QM loans. Other SERs more generally agreed with the need for clearly defined requirements. In addition, some SERs noted that existing software programs do not capture all of the different cost components that might go into a points and fees calculation and that system upgrades would be necessary and costly.

A few SERs recommended that the CFPB exclude this data point due to the inconsistent regulatory requirements, complexity of the calculation, and re-identification risk for borrowers.

- Total Origination Charges. One SER commented that this data point is more meaningful for fair lending analysis and less expensive to collect than total points and fees. Another SER stated that the components of total origination charges are unclear and would be time-consuming and burdensome for FIs to collect. A different SER suggested delaying implementation of this data point, but alternatively urged the CFPB to link any amounts to be included to those reported on Federal Housing Administration, Veterans Affairs, or TILA-RESPA forms. One SER was concerned that separating origination charges could lead to regulated pricing.

- Total Discount Points. A couple of SERs expressed uncertainty as to what would be included as discount points. One SER expressed concern that the reporting requirement would be too time-consuming and burdensome for FIs. Another SER suggested deferring adoption of the data point, but, if required, defining the data point clearly. One SER addressed issues with how points and fees data are reported and used differently for various Federal and State-level tests. The SER stated, for example, that bona fide discount points are a type of fee, but the QM rule, in effect, imposes limits on how much the rate can be bought down. The SER stated that loan-level price adjustments ("LLPAs") should be considered in the definition of bona fide discount points.

- Interest Rate. Several SERs encouraged the CFPB to clearly define the interest rate, if adopted as a data point. One SER stated that, if included, the reported interest rate should be the initial rate. Two SERs asserted that any requirement to report the adjusted interest rate must capture the LLPAs, so that the differences in rates could be determined. One SER noted that interest rates for HELOCs would require additional documentation and another stated that an enhanced definition of the data point would be required for HELOCs. A couple of SERs expressed concerns about borrower privacy, with one noting that the Board had declined to require reporting of the interest rate for that reason.

- Risk-Adjusted, Pre-Discounted Interest Rate. With respect to recordkeeping, one SER stated that the FI manually tracks this data on a specifically designed Excel spreadsheet, even though the FI uses automated systems for other operations. A few SERs stated that vendor changes would be required in order to provide this data, which may lead to additional costs through vendor upgrade fees. One SER addressed possible different approaches in the interaction of LLPAs and discount points in the pricing of the loan, while another SER commented that discount points would apply only after LLPAs were included. Another SER urged caution on how much pricing information is made public, noting that FIs price loans differently. The SER also noted that some FIs are concerned that the disclosure of pricing data will result in regulated pricing, because the information will raise questions about differences in prices. One SER stated that the data point would add no value to the lending portion of its business.

8.6.8 Property Data

- Census Tract Reporting. One SER stated that it does not have issues with the current reporting by census tract. Another SER noted that improvements to the HMDA website of the FFIEC would make it easier to obtain the census tract data. Some SERs stated they would prefer to continue to report census tract data instead of reporting parcel ID. One SER stated that because the census tract data is updated each June, FIs must go back and review their LARs to make sure the data captured reflects updated census tract information.

- Total Financed Units. SERs generally encouraged the CFPB to limit the number of enumerations for reporting the size of multifamily properties. For example, one SER suggested that the data collection should be limited to two classes: 1- to 4-family units and over 4 family units. Another SER agreed, but stated that, if that suggestion is not adopted, any new requirements should require only ranges, such as 1 residential unit, 2-5 units, etc. One SER stated that distinguishing single-family and multifamily properties provides sufficient information; knowing whether a multifamily property has 6 or 26 units is not necessary. One SER reported that its FI currently distinguishes among a single unit, 2- to 4-units, and more than 4 units. This SER commented that a requirement to identify the exact number of units would be more work and more costly, and would provide more opportunity for reporting errors.

- Multifamily Affordable Housing. The SERs generally did not know if information about affordable housing programs is currently collected or how it would be collected. Several SERs noted that it may be a manually intensive process to determine whether a multifamily property is subject to a restrictive deed and that some of these properties may be subject to covenants that do not appear on the deed. A few SERs were concerned that the lack of information about affordable housing restrictions could result in reporting errors. One SER suggested making the data point optional for FIs that want to get recognition for this lending activity. Other SERs noted that this information or similar information on affordable housing programs is already collected under CRA.

- Manufactured Housing Details. Several SERs noted the importance of distinguishing manufactured homes from other dwelling types, because of pricing differences. One SER urged the CFPB to clarify the definition of manufactured home. Another SER suggested creating a special category for other unusual residences that would have pricing differences, such as geodesic homes and log homes.

    - Security Interest. One SER stated that it is important to distinguish how manufactured housing is secured because chattel financing might appear predatory when it is actually appropriate for the product type. Another SER commented that the security type should be easy to capture and that the information would be helpful to examiners and consumer advocates.

  - Property Interest. One SER noted identifying whether a manufactured home is to be sited on property that is leased by the homeowner or owned by the homeowner is useful information. The SER also stated that identifying cooperative or leasehold interests may be difficult. Another SER stated that it would be a burden to provide property interest information on manufactured housing. The SER also stated that the while property interest data is gathered for loan servicing, it may not be available for withdrawn or denied loans.

- Owner Occupancy. Two SERs indicated that their records differentiate between primary and secondary dwellings. One SER stated that the information is in the individual loan files. The other SER stated that the information is not captured for commercial loans.

8.7 Alignment with Industry Data Standard

- SERs that sell loans to Fannie Mae or Freddie Mac or have compliant loan origination systems generally supported the use of the MISMO data standard. Some SERs stated that adoption of the data standard would help keep costs low and allow for more efficient collection of data. One SER noted that there would be a benefit if state reporting requirements could also be integrated with a data standard. One SER stated that the cost to add data points to existing software would be minimal.

- Tier 3 SERs generally were not familiar with MISMO and were not certain of the potential benefits. These SERs stated that additional training and other process adjustments would be required to come into compliance, resulting in increased costs. Some SERs indicated that they would continue to collect and maintain the data manually and would realize few benefits of the proposed data standard. One SER opined that adoption of a data standard could be beneficial if data points are aligned with business practices.

- Some SERs expressed concerns regarding implementation of the data standard. For example, a few SERs were concerned that there would be challenges in applying the MISMO standard to business and commercial loans. One SER stated that the FI sells loans to a credit union service organization (“CUSO”) that does not use MISMO and enters data one loan at a time when the CUSO sells loans in the secondary market. Other SERs were concerned about increased costs and potential penalties for errors. One SER noted that the FI uses custom short-form applications for HELOCs that may not be consistent with a data standard. One SER recommended making MISMO optional.

8.8 Modernizing HMDA Data Process

The Panel also invited the SERs to comment on potential operational improvements identified by the CFPB that might relate to the impact of the proposals under consideration on small businesses. Some of the potential improvements discussed might not require rulemaking, but could affect how small businesses comply with new HMDA requirements.

8.8.1 Geocoding

- Several SERs stated that geocoding for census tract currently does not raise many issues. One SER noted that it can be difficult to geocode rural and new construction properties, and that the geocoding tool on the FFIEC HMDA website may not work for these properties. One SER stated that geocoding for first mortgages is not difficult, but it would be a significant manual process to geocode HELOCs.

- SERs generally supported the idea of shifting some of the burden of geocoding to the government. One SER noted that geocoding is the largest source of the FI's reporting errors. Some SERs suggested that this effort could be supported more if the government is also responsible for errors in geocoding. One SER stated that if FIs are required to return geocoding exceptions for correction, it would prefer to retain the function. Another SER requested that the CFPB allow FIs to rely on third-party geocoders, provided that due diligence is performed on the vendor to confirm accuracy.

8.8.2 Web-Based Data Submission Tools

- As noted, the SERs generally supported a move to web-based data entry software. Several SERs also provided specific suggestions about capabilities that would be helpful to include in a web-based application, such as flexible navigation among screens. One SER noted that any tools the government could provide for free, the better. One SER expressed concern about regulators' ability to access the data before the FI could perform its own accuracy review.

8.8.3 Submission and Editing Process

- SERs supported the CFPB's proposed operational improvements to the data submission and editing process. The SERs particularly supported moving to a web-based system for data submission that would accommodate network access and multiple users within a FI.

- Additionally, SERs supported the CFPB's proposal to update the HMDA data entry software to allow for batch editing (multiple edits at once) and smart editing, where the system would account for loan type and exclude unnecessary data fields before identifying submission errors. Several SERs identified the need to eliminate error messages for inapplicable data fields, noting that removing duplicate errors would save time responding to error messages and resubmitting data that was not applicable to the loan type.

- Several SERs commented on the difficulty of upgrading systems and integrating technology within FIs. One SER stated that new technology is the reality of being competitive, but noted that updating systems can make regulatory compliance difficult in the transition. A number of SERs agreed that, for HMDA reporting, the focus should be on improvements to the FFIEC's free DES, rather than the FIs' loan origination systems.

8.8.4 Technical Assistance

- Several SERs suggested that the system for providing technical support and guidance could be improved by providing concrete examples in written materials and a confirmation of receipt and tracking method for questions submitted to the regulators. Some SERs expressed concern about inconsistent guidance from various regulators and requested clarification as to whose interpretation controls.

8.8.5 Modified LAR

- SERs generally questioned the utility of the requirement to provide the modified LAR, noting that the information is now available on the FFIEC website. Most SERs stated that they never receive requests for the modified LAR and recommended that the CFPB eliminate the requirement. One SER specifically recommended that the CFPB require that the modified LAR not include sensitive data such as credit score, age, income, loan amount, data of application, and date of action taken. One SER expressed concern that, especially in less populated areas, the modified LAR could be compared to public records to identify borrowers.

8.9 Impact on the Cost of Business Credit

The SERs had few comments on the impact on the cost of business credit. Not all of the SERs made loans to small businesses. One credit union SER, however, noted that many of the FI's HELs are used by individuals to fund a business. Two bank SERs stated that a high percentage of their FIs' loans are small business or commercial loans where homes are typically used as additional collateral. These two SERs explained that, because competition for loans currently is strong, the FIs have to absorb extra costs. One of these SERs also stated that so far its FI has improved efficiency to cut costs and has not imposed a regulatory compliance fee or marketed its data, as have other FIs, to offset compliance costs. A few SERs noted that their FIs would likely have to pass additional costs on to business customers. A third bank SER stated that the FI charges a loan documentation fee to its commercial clients, but because borrowers are fee-sensitive, the FI could lose business with additional fees. When asked, the SERs did not identify significant alternatives to any of the proposals under consideration that might minimize the impact on the cost of credit for small entities while accomplishing the statutory objectives addressed by the proposals under consideration.

9. PANEL FINDINGS AND RECOMMENDATIONS

9.1 Entities Affected

The following table provides the CFPB's estimate of the number and types of entities that may be affected by the proposals under consideration, as described in this Panel Report:

Category	NAICS	Small Entity Threshold	Total Entities	# Small Entities	Entities originating dwelling-secured mortgages	Small entities originating dwelling-secured mortgages	All HMDA Reporters (7406)	Small-Entity HMDA Reporters
Commercial banks & savings institutions[1]	522110, 522120	$500M assets	7,150	5,816	6,984	5,682	4,368	3,131
Credit Unions[2]	522130	$500M assets	6,960	6,550	4,385	3,976	2,005	1,602
Mortgage companies (Non-bank lenders)[3]	522292	$35.5M revenues	14,566	14,328	2,930	2,243	1,033	791

[1] Asset size and engagement counts obtained from 2012 Call Report data as compiled by SNL Financial. Savings institutions include thrifts, savings banks, mutual banks, and similar institutions. Estimated number of lenders originating any mortgage transactions includes all open- and closed-end loans secured by 1-4 family residential properties, and all loans secured by multifamily residential properties from Schedule RC-C of the Call Report.

[2] Asset size and engagement in closed-end mortgage loans obtained from 2012 National Credit Union Administration Call Report. Count of credit unions engaged in closed-end mortgage transactions includes total first mortgage and other real estate loans, year-to-date from Section 2 of the Call Report.

[3] Total number of state-licensed mortgage lenders that originated residential mortgages based on Nationwide Mortgage Licensing System and Registry Mortgage Call Report data for 2012. Brokered loans were excluded when determining the number of non-bank lenders originating dwelling-secured mortgages.

9.2 Related Federal Rules

As required by the Dodd-Frank Act, the proposals under consideration would implement new data collection requirements under HMDA. The proposals under consideration also would revise certain other data collection and reporting requirements in Regulation C as described in the Outline. Except as discussed in Section 2.2 of this report, the Panel is not aware of any other Federal regulations that potentially duplicate, overlap, or conflict with the proposals under consideration.

9.3 Panel Findings and Recommendations

9.3.1 HMDA Business Process

The SERs confirmed that the CFPB's preliminary assessment of potential impacts of the proposals under consideration generally reflected their FIs' operational tasks accurately. Similarly, the SERs confirmed that the three representative FI types (reflecting low, medium, and high levels of complexity) developed by the CFPB could be used to describe the SERs' FIs. For SERs that reported on ongoing operating costs, their estimates were largely in line with the CFPB's estimated baseline cost per application under existing Regulation C.

Given the uncertainty about which proposals under consideration would be included in the proposed rulemaking, most SERs did not provide specific estimates of the potential cost impact of the proposals under consideration. The Panel recommends, however, that the CFPB continue outreach efforts to encourage small FIs to provide robust data about the potential cost impact of the proposals under consideration on their own businesses and about their current HMDA compliance costs. The Panel also recommends that the CFPB solicit comment in the proposed rule on the business models that it uses to develop its initial benefits and costs analysis in the proposed rule.

9.3.2 Institutional Coverage

The SERs generally supported the CFPB's proposal under consideration to increase the loan threshold to trigger HMDA reporting requirements, but favored increasing the proposed threshold of 25 to a higher number of loans. The SERs recommended that the Bureau exempt from HMDA reporting as many small institutions as possible without compromising the integrity of HMDA data. Some SERs also recommended excluding HELOCs and HELs from the threshold count, or increasing the threshold, as well as implementing a 2-year look-back period for triggering HMDA reporting.

The Panel recommends that the CFPB consider whether revisions could be made to Regulation C that would simplify and clarify the current tests for determining when a FI is covered by the regulation's requirements in a manner that would minimize the burden on small entities while ensuring adequate data collection to fulfill HMDA's objectives. In particular, the Panel recommends that the CFPB seek comment in the proposed rule and cost information that would help the CFPB establish an appropriate loan-volume threshold for establishing institutional coverage. The Panel also recommends that the CFPB solicit public comment and compliance cost information on which types of mortgage loans should count toward any loan-volume coverage threshold that the CFPB might adopt. The Panel further recommends that the CFPB consider whether a multiyear look-back period would establish more predictable coverage obligations for small FIs.

9.3.3 Transactional Coverage

The SERs supported excluding unsecured home improvement loans from HMDA data requirements. Some SERs also suggested excluding certain dwelling-secured loans from the data collection and reporting requirements, including commercial loans and HELOCs.

The Panel recommends that the CFPB seek comment in the proposed rule on whether applying Regulation C reporting requirements to dwelling-secured loans without regard to loan purpose would establish an approach that is easier for FIs to apply than the current reporting rules that generally rely on a consumer's stated purpose for the loan. The Panel recommends that the CFPB solicit public comment on whether any types of dwelling-secured loans should be excluded from Regulation C's data collection and reporting requirements and, if so, which types of loans should be excluded. The Panel encourages the CFPB to consider and seek public comment on how categories of loans that would be affected by the proposals under consideration might be related to a FI's Community Reinvestment Act reporting. The Panel also recommends that the CFPB specifically solicit public comment on whether clarification on the coverage of preapprovals is needed and, if so, how the coverage of preapprovals should be determined in light of HMDA's purposes.

9.3.4 Data Points

The CFPB is considering collecting additional data points to make HMDA data more useful in ensuring that FIs are meeting the housing needs of their communities, helping focus public and private investment in housing, and detecting potential fair lending concerns. As a general matter, the Panel notes that the SERs expressed concerns about borrower privacy in relation to various data points in the Outline. The Panel agrees with the SERs that there are important implications for privacy in some of the data points that the CFPB is considering proposing and that the CFPB should consider ways to address privacy risks.

Regarding each new data point, the Panel recommends that the CFPB seek public comment on the one-time and ongoing costs of implementing each proposed new data point and on any alternatives to or adjustments in each data point that would reduce burden on small businesses while still meeting the purposes of HMDA. The Panel recognizes that the SERs had concerns, suggestions, or questions about aspects of the data collection that could apply broadly to each or many of the data points included in the Outline. Therefore, the Panel recommends that the CFPB seek comment in the proposed rule on which data points might be particularly appropriate for, or sensitive to, considerations about costs, as well as the following:

- Use of ranges, rather than specific amounts, or multiple data points, or averages, for reporting the relevant data;
- Allowing reporting of data relied upon by the FI, rather than data as it is defined specifically by the CFPB;
- Particular difficulties in collecting the data (e.g., for commercial loans and reverse mortgages);
- Alternatives for reporting a data point when the FI does not use that information in its underwriting and loan processing; and

- The need for clear definitions.

To better understand the potential value of the data points, the Panel also recommends that the CFPB solicit comment on which data points under consideration may have particular benefits for small businesses and what are those benefits.

9.3.4.1 Unique Identifiers

The SERs had varying reactions to the proposals under consideration that would require reporting of the unique identifiers specified in the Dodd-Frank Act. The SERs generally supported the proposal to require the NMLSR ID for the loan originator involved in the mortgage transaction. The SERs also were open to proposals to improve the current entity identifier for HMDA reporters. On the other hand, the SERs expressed concerns about proposals to require a universal loan ID and parcel ID, stating that both of these identifiers would be a challenge to implement if an application does not result in an origination.

The Panel recognizes that there are ongoing government-wide and industry-wide efforts to adopt solutions and standards that might be used for entity, loan, and parcel identifiers, and that the CFPB will continue to participate in and follow those efforts. The Panel also recognizes that there will be costs associated with adoption of any identifier system. The SERs were particularly concerned about the feasibility of providing the parcel ID for applications that are either denied or withdrawn before that information is typically available. The Panel recommends that the CFPB seek comment on each of the unique identifiers under consideration that were included in the Dodd-Frank Act. The Panel also recommends that the CFPB solicit comment on whether each of the identifiers should be required for all entries on the LAR or only for loan originations and purchases. As applicable, the Panel strongly recommends that the CFPB consider and seek comment on prohibiting the use of information that could be used to directly identify an applicant or borrower as any component of a loan identifier.

9.3.4.2 Application Data

The SERs identified a number of concerns regarding the CFPB's proposals under consideration relating to additional application data. Generally, the SERs reported that their FIs used manual underwriting procedures, and that reporting AUS results could provide an incomplete and distorted picture of loan transactions, triggering unnecessary fair lending scrutiny. Regarding denial reasons, a number of SERs noted that an FI may have several reasons for denying a loan, which could complicate reporting. The SERs also were concerned about reporting application channel and, for commercial loans, the application date.

Based on feedback received from the SERs, the Panel recommends that in the proposed rule the CFPB solicit additional information on the extent to which AUS-generated information is used by small FIs and how that information is used in credit decisions. The Panel also recommends that the CFPB seek public comment on whether any method of reporting on the use of an AUS that is included in the proposed rule is consistent with the current practices of small FIs. The Panel acknowledges that data concerning the application channel is required by the Dodd-Frank Act and recommends that the CFPB seek comment on the most effective means of collecting this information. Finally, the Panel recommends that the CFPB consider providing and seeking public comment on additional guidance on how HMDA reporters may determine the application date.

9.3.4.3 Applicant and Borrower Data

The SERs suggested a number of changes to the CFPB's proposals under consideration regarding the collection and submission of applicant and borrower data. The SERs generally were concerned that applicant's or borrower's DTI involves a complex and time-consuming calculation. The SERs were not in agreement about whether the CFPB should prescribe the calculation or allow each FI to report the DTI relied upon according to its own formula. The SERs also expressed concern about reporting gross annual income for commercial loans, and suggested that the CFPB provide additional clarification on what should be reported. The SERs also expressed concern about the privacy implications of reporting additional borrower data, including age and credit scores, and recommended that the CFPB require reporting of the information in ranges.

As stated above, the Panel acknowledges the SERs' concerns about the reporting and disclosure of sensitive information about applicants and borrowers. The Panel recommends that the Bureau evaluate ways to address any privacy risks that may be created by the reporting and disclosure of HMDA data. With respect to specific applicant and borrower data points, the Panel recommends that, in addition to soliciting comment on whether to require reporting of DTIs, the CFPB solicit comment on whether it would be less burdensome for small FIs if the CFPB would adopt a specific method for calculating DTI or would allow the FIs flexibility in developing their own calculations for DTI. The Panel also recommends that the CFPB consider clarifying requirements to report the income relied upon for commercial loans.

9.3.4.4 Loan Types

The SERs generally did not oppose reporting the loan type for HMDA-reportable loans, but expressed some concerns about potential fair lending and data integrity issues for certain loans types. In particular, the SERs expressed concern about the proposal under consideration to add a QM flag and whether reporting this data point would make FIs more vulnerable to error tolerance violations during examinations if any QM designation is later determined to be incorrect. The SERs stated that reporting loans as having a home improvement purpose would continue to be burdensome, but did not express concerns about proposals to flag HELOCs and reverse mortgages.

To address SERs' concerns, the Panel recommends that the CFPB solicit comment in the proposed rule on how it could minimize the burden of collecting the QM information on loans. The Panel also recommends that the CFPB seek comment on any costs and other burdens associated with existing or potential HMDA requirements related to home improvement loans, HELOCs, or reverse mortgages.

9.3.4.5 Loan Features

For the most part, the SERs did not have significant concerns about the CFPB's proposals under consideration to require reporting of information pertaining to loan term, prepayment penalties, the ARM introductory term, and nonamortizing features associated with a loan. The SERs stated that information regarding nonamortizing features generally is available, but expressed concern that reporting this information would increase the potential for errors and enforcement actions. One SER suggested that the CFPB adopt the Regulation Z definition for the ARM introductory term. The SERs stated that prepayment penalties are not widely used and typically apply only to commercial loans.

The Panel recognizes that certain loan features, such as the loan term, introductory term, and nonamortizing loan information, may be expressed in a variety of ways and recommends that the CFPB seek comment in the proposed rule on which methods of reporting this information would minimize burden on small FIs while still meeting the Dodd-Frank Act reporting requirements and purposes of HMDA.

9.3.4.6 Loan-to-Value Ratios

The SERs generally supported the CFPB's proposal under consideration to require information needed to determine the LTV ratios for HMDA-reportable loans. However, several SERs asked the CFPB to make clear which property value would have to be reported if a FI receives multiple valuations in the loan process. The SERs also noted that the property value might not be available for certain transactions, including streamline refinancings, HARP loans, certain SBA loans, unsecured loans, and withdrawn or denied applications. With respect to the CFPB's proposal to require reporting of the CLTV ratio, the SERs generally were concerned about inconsistent methods for calculating the data point. The SERs urged the CFPB to provide clear guidance on how to calculate CLTV ratio in order to avoid reporting errors and inconsistent regulatory interpretation. One SER noted privacy concerns related to the CLTV ratio.

The Panel recognizes that FIs may use different calculations and a variety of property valuation methods in a loan transaction, and that additional guidance may be necessary to ensure consistency and accuracy in the data reported. The Panel recommends that the CFPB clarify in the proposed rule and seek public comment on which property valuations must be reported. The Panel also recommends that, in addition to soliciting comment on whether to require reporting of the CLTV ratio, the CFPB solicit comment on whether a CFPB-defined calculation method would be less burdensome for small FIs than allowing the FIs to develop their own calculations for the CLTV ratio.

9.3.4.7 Pricing Data

The SERs offered differing opinions on the burden of adding the pricing data points under consideration. They stated that some of the pricing data points would be more helpful in fair lending analyses and easier to implement than others. The SERs noted that federal and state law definitions for total points and fees are inconsistent. They stated that the FIs would need to train employees to collect this information. The SERs generally urged the CFPB to clearly define the pricing data requirements. Several SERs stated that the risk-adjusted interest rate and other non-Dodd-Frank Act pricing data points would be burdensome for small FIs.

The Panel recommends that the CFPB seek comment in the proposed rule on the costs to small FIs of providing the pricing data. In particular, the Panel recognizes that SERs have concerns regarding definitions used by Federal and State regulators for pricing and other data points and that the lack of uniformity can impose burdens on small FIs. Therefore, the Panel recommends that the CFPB consider aligning the requirements of Regulation C to the pricing data used in other Federal and State mortgage disclosures as a way to reduce burden.

9.3.4.8 Property Data

The SERs generally stated that they currently collect the property data points under consideration. Some SERs, however, noted that information about whether the property will be used as a principal residence, a second home, or an investment property may only be in individual loan files and may not be available for commercial loans. In addition, some SERs stated that information concerning multifamily affordable housing is not generally disclosed during the loan process and may be labor-intensive to obtain. Some SERs expressed a preference for continuing to report census tract data rather than the parcel ID discussed above in sections 3.3.1 and 8.6.1. The SERs encouraged the CFPB to limit the number of reporting options for total residential units. The SERs generally did not oppose collecting information on manufactured housing, including information on property interest and security interest. Some SERs, however, noted that it can be difficult to determine whether a dwelling that is already on site is a manufactured home and that FIs may rely on appraisers for that determination.

The Panel recommends that the CFPB seek public comment in the proposed rule concerning the extent to which information about multifamily affordable housing programs is available in mortgage loan files, how FIs currently use this information, and the costs and other burdens of obtaining this data. The Panel recommends that the CFPB seek public comment on appropriate alternatives to reporting the total number of residential units, including whether FIs should report ranges of the number of units. The Panel also recommends that the CFPB solicit public comment on challenges with requiring FIs to report owner occupancy status as including reporting second home and investment uses, rather than just use as a principal residence.

9.3.5 Alignment with Industry Data Standard

SERs' feedback on use of an industry data standard (MISMO) depended on whether the SERs sell loans in the secondary market, or whether their LOS vendor's system was aligned with industry data standards. The SERs whose FIs participate in the secondary market or have more automated processes generally stated that the alignment with a data standard would help keep costs low and allow for more efficient collection of data points. Tier 3 SERs, however, generally were not familiar with MISMO. They were concerned that the adoption of a new data standard would require additional employee training and other process adjustments. Some SERs were concerned that there would be challenges in adapting MISMO to business and commercial loans and potential penalties for errors. One SER recommended making adoption of MISMO optional.

The Panel understands that some small FIs may not use the MISMO data standards because they do not sell loans into the secondary market. The Panel recommends that the CFPB seek comment in the proposed rule from small FIs about whether they, or their vendors, use MISMO-compliant data definitions and standards and the potential effect on small FIs of alignment of the HMDA data requirements with MISMO data standards.

9.3.6 Modernizing HMDA Data Process

The Panel acknowledges that most of the process improvements identified by the CFPB do not require rulemaking and, therefore, are not covered by the SBREFA requirements. However, the Panel understands that issues related to the possible process improvements identified by the CFPB are relevant to some of the concerns and issues identified by the SERs during the Panel process. Therefore, the Panel supports the CFPB's efforts to identify ways to make the operational process of HMDA data submission easier for small FIs, including through geocoding and data submission improvements, and suggests that the CFPB consider inviting feedback in the proposed rule on any other process improvements that might be made outside of rulemaking.

In addition, the Panel understands that small FIs rarely, if ever, receive requests from the public for their modified LARs or disclosure statements, and that making these available as currently required can be burdensome. The Panel recommends that the CFPB consider seeking comment in the proposed rule on whether there is a continued need for small FIs to prepare and make a modified LAR available and whether there may be alternative means of providing the modified LAR and disclosure statements to the public.

<u>APPENDIX A</u>: WRITTEN COMMENTS SUBMITTED BY SERS

360 Federal Credit Union

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March 19, 2014

Consumer Financial Protection Bureau
1500 Pennsylvania Avenue NW
Washington, DC 20229

To Whom it May Concern:

I would like to thank you for the opportunity to participate on this HMDA Panel to provide feedback on how the proposals may affect our Credit Union and other small entities like us. It was a valuable learning experience and I sincerely hope the input of the Panel will lead to a better proposed, and ultimately, final regulation.

My comments are divided into two sections; the first a "macro" view on HMDA and the proposed changes, and the second a "micro" view regarding the items for which you are specifically seeking input.

MACRO

As you know and re-illustrated to the Panel, HMDA was originally intended to ensure that providers of home loans were not "redlining"....avoiding making loans in certain geographical areas. I have always supported and agreed with its intent.

However, as I refer back to the original rule and subsequent and proposed changes, it has unfortunately become something else; it is evolving further and further away from its original, valid purpose.

For small financial entities, the Dodd-Frank Act has been nothing short of "kitchen sink regulation" which has punished good financial providers for the problems caused by a few. I use the phrase "kitchen sink regulation" because it seems that rather than focusing on underlying causes of problems, the approach was to throw anything and everything into it but the kitchen sink. This methodology has raised costs for consumers, eliminated availability of services and cost hard-working individuals their jobs. Small entities have limited resources and we must make difficult trade-off decisions every day; and this type of regulation can be financially and operationally overwhelming.

Here is an opportunity for you to move away from "kitchen sink" thinking and return to the original intent of HMDA. Listening to the valuable input you have received from the panelists is a great first step. It was fascinating to hear the perspectives of the other SERs on the Panel and how each will have their own struggles complying with different elements of the proposals.

As I verbalized at the meeting, I have no problem collecting and providing *reasonable* data for a *specific* reason; but there seems to be no proven end point or reason in this case. CFPB Staff comments attempting to address this point centered around "getting cleaner data" and/or "providing additional data to researchers, the public, etc." These are not true end points but simply open-ended statements which could be applied to virtually any type of data collection.

And then there is the privacy issue of the consumers you have been entrusted to protect; the proposed expansion of data points is diametrically opposed to consumer privacy.

I offered an alternative approach at the meeting and would like to repeat it for your consideration. Since these proposals have little to do with the original intent of HMDA, and since there seems to be little or nothing you can do with the Dodd Frank statutory additions, I would suggest at least minimizing further negative impact to us and thus consumers by:

- Defining a maximum of four categories of information for which you seek data. For example: geographical, economic, ethnic and demographic.
- Under each category select *no more than* two data points which you feel would provide the best information to meet the spirit and intent of HMDA.

I will now turn to the specifics of the proposed changes.

MICRO

I compliment your staff for providing materials which were easy to work with and the thought process with which you were able to segment the various tiers and steps.

Having reviewed the tiers you created to assist in identifying types of HMDA reporters, we are between the Tier 1 and Tier 2 levels. All but two steps are performed under Tier 2. Specifically we are a Tier 1 for having high automation, only verifying edits manually and we use multiple stages of checks. We do not see the cumulative application of the proposals changing our status in this regard.

Regarding the 18 HMDA operational steps you identified, we combine some of the steps listed and do not use HMS/geocoding software. I agree you have captured the totality of the process with these steps.

MISMO/ULDD

We do not sell to either Fannie Mae or Freddie Mac, but our LOS maintains data in MISMO/ULDD compatible format. We do sell to the Federal Home Loan Bank however, and they are not currently requiring MISMO/ULDD format. In any event I do not anticipate any system changes regarding this issue.

DATA POINTS

As you can tell from my MACRO comments, this is an area I have great concern over, but I will keep my comments in this section operationally focused.

Regarding the statutory Dodd Frank additions, our system has the capability to capture all of those data points with the exception of the "Parcel ID". Also, we strongly believe that the institution's NMLS number should be used for the "Unique FI Entity Identification Number" and that the CFPB should assign all of the "Universal Loan ID" numbers if that is the direction chosen. In speaking with our vendor, there would possibly be a one-time additional cost for these items depending upon programming time and complexity. History shows that programming changes are seldom less than \$3,000 to \$5,000 minimum.

For all of the additional data points you are considering, our LOS has the ability to capture the data, but vendor programming would be required to bring that information forward into the HMDA reporting process. Again, a one-time additional cost would be incurred.

We do see problems with a couple of the items. First, there is no uniformity in data for points and fees, so a specific and detailed definition would be required from you. Second, regarding the AUS results, as of what point in time during the process should that information be reported? Again, definition required. And this only addresses first mortgages, not Home Equity or HELOCs, so what tool would be used for them?

Further, there is a difference between rule creation and rule enforcement. I am very concerned that there might be inconsistency between you and regulatory examiners when it comes to interpretation of meeting the new and additional data collection requirements.

MODERNIZATION OF PROCESS
Your proposed actions to restructure the geocoding process, allowing batch geocoding and multiple users through a web-based system would be welcomed. However, along with shifting the responsibility of coding to the Government, the responsibility for errors and correcting them should rightfully move there as well. Some type of indemnification should be provided to us. We estimate an annual savings of just over $1,200 if this process is shifted.

We have an option available to add a module to further assist us with doing the geocoding at a cost of $200 per year per state, and we cover 4 states for a total of $800. We have not planned to do that.

We would no longer geocode for internal purposes if this change occurs. We have ample data on our members to assist us with marketing and other research efforts.

We always experience problems getting questions answered and problems resolved. Calls and emails go unanswered and the current written information can be ambiguous at times. Since much more information may be required of us, there needs to be a consistent and reliable means of receiving help. Whether this is via phone or live chat, discussion with a knowledgeable person is preferred.

INSTITUTIONAL AND TRANSACTIONAL COVERAGE
Even under the guidelines you have proposed we will still be required to report HMDA data. Therefore, no changes would be required to our systems. I encourage you to follow the same path you did for the Dodd Frank mortgage rules and exempt as many small institutions as possible since the totality of their combined responses would be immaterial to your overall data.

For 2013, out of 404 applications taken, 71, or 18% were not originated. Because we use an automated system, there is no cost differential between originated and not originated so we envision neither a benefit nor a gain.

We currently report all types of loans, including those which are optional. I recommend that you maintain the current list of HMDA covered transactions with the exception of home improvement loans not secured by a dwelling, which should be eliminated. The category for home purchase via a HELOC could be considered as a requirement.

MODIFIED LAR
Our LOS handles preparation of the LAR, so if requirements change we would again be looking at a possible programming change for a one-time cost. However, in general, based on the input of all the Panel members at the meeting, perhaps it is time to do away with the modified LAR

process. With all the years of experience in that room added together versus the lack of public requests (or should I say non-existent requests?), this seems like a waste of everyone's time and resources and an opportunity for you to remove a slight burden.

COST OF CREDIT ANALYSIS

The last time we updated our HMDA compliance processes and systems was in April of 2013 as part of a conversion to a new software vendor. Since the conversion included all the latest HMDA requirements, we are unable to separate the costs specifically related to HMDA. We will perform any needed updates the next time HMDA data is due, which is traditionally when we make changes. As stated earlier, our vendor would not quote a cost for possible changes for these proposals but we can reasonably expect a minimum of $3,000 to $5,000.

The other possible one-time costs for implementation of these proposals would include forms, training, and rewrite of internal procedures. Since we utilize electronic forms, our vendor would be responsible for revising applications or other related documents at a cost to be determined. We have estimated that one-time training would cost us approximately $1,900 which includes five hours of training for all individuals involved with the HMDA process. In addition, we anticipate approximately 15 hours of procedure review/revision including the time of a manager and lead person at an estimated one-time cost of $750.

OUR COSTS

In analyzing the annual costs for the current HMDA process, we utilized your breakout of the 18 steps as follows:

Transcribing Data IF JUST HMDA DATA	Hrs. Spent Per App 0.25	# Of Apps 404	Total Cost $3,043.64
Resolving Reportability Questions Clerical	Hrs. Spent Per App 0.5	# Of Apps 60	Total Cost $614.02
Transfer Data to HMS Clerical	Hrs. Spent Per App 0.02	# Of Apps 404	Total Cost $165.37
Complete geocoding data Lead	Hrs. Spent Per App 0.083	# Of Apps 404	Total Cost $1,217.53
Standard annual edit & internal check Clerical	Hrs. Spent Annually 15		Total Cost $307.01
Researching Questions Clerical Lead Total	Hrs. Spent Per App 0.5 0.5	# Of Apps 39 21	Total Cost $399.11 $381.25 $780.36
Resolving question responses Clerical Lead	Hrs. Spent Per App 0.5 0.5	# Of Apps 39 21	Total Cost $399.11 $381.25 $780.36
Checking post-submission edits Clerical	# Apps Annually 16		Total Cost $327.48
Filing post-submission documents Management & Lead Person	Hrs. Spent Annually 3		Total Cost $125.13
Creating Public LAR Clerical	Hrs. Spent Annually 0.5		Total Cost $10.23
Distributing Public LAR Management	Hrs. Spent Annually 0	# Public Requests 0	Total Cost $0.00
Distributing disclosure report Management	Hrs. Spent Per App 0	# Of Requests 0	Total Cost $0.00
FI uses vendor HMS software			Total Cost $500.00
Training (Ongoing) 11 individuals for 2 hours	# Training Hours 2		Total Cost $758.66
Internal Audit Staff	Hrs. Spent Annually 0		Total Cost $0.00
External Audit DM			Total Cost $1,500.00
Exam Prep Management	Hrs. Spent Annually 0.5		Total Cost $23.55
Exam assistance Management	Hrs. Spent Annually 0.5		Total Cost $23.55
GRAND TOTAL ANNUAL HMDA			$10,176.89

CONCLUSION

Regulatory compliance continues to deplete more time and resources for small entities like ours. Each regulation and/or proposed change may seem relatively insignificant to the authors, but taken together the results are extreme. To this end we have recently hired a full-time compliance officer to attempt to keep up with the ever-growing list of requirements. As a result we have had to increase fees to our members, lower deposit rates, adjust loan rates and reduce services in order to afford this new staff position. This is a negative to our members; the consumers that you are required to protect.

Adding unrelated requirements to an existing regulation does not help this situation. I strongly urge the CFPB to listen to the comments of the SERs and take them into serious consideration while writing your proposal. Get back to the original intent of HMDA, eliminate data points, utilize ranges that will protect consumer privacy, get consistency with examiners and eliminate our liability for the data once it leaves our organizations. Unfortunately, these proposals seem very much like an attempt to police the recent QM rules since they have little or nothing to do with redlining. If these additional points of data are needed or wanted by other individuals or groups, place the burden of operations and cost on them, not on us.

While the totality of these proposals may not have a material effect on larger financial providers, as you have rightfully heard from the Panel, they certainly will go a long way to make funds for borrowing less available and more costly to consumers of small entities whose sole purpose is supposed to be improving their lives.

If you would like any further information or clarification, please feel free to contact me and thank you once again for this opportunity.

Very truly yours,

Robert Aresti

Robert L. Aresti
President/CEO

From:	Anne Byrd
To:	CFPB_HMDA_SBREFA
Subject:	Comments - HMDA Rulemaking
Date:	Thursday, March 20, 2014 10:33:29 PM
Attachments:	image8e150a.gif@dd27fcdd.77814db2 imagebe8f0f.jpg@b7a30374.85324794 image8bf0ae.jpg@48c752d7.17c645dc imageab9222.jpg@3cd3a8b8.205547ba
Sensitivity:	Confidential

To: Members of the HMDA SBREFA Panel Team

Thank you for the opportunity to participate as a Small Entity Representative on the SBREFA Panel and to have input into the HMDA rulemaking process. I hope that the information exchanged during the panel meeting, and in the teleconferences preceding the meeting, will be useful to you. In follow up, I would like to share the following additional comments for your consideration.

STREAMLINING THE DATA COLLECTION AND REPORTING PROCESS
As mentioned during the panel discussion and telephone conferences, the HMDA data collection and reporting process is labor-intensive, for all reporting institutions (Tier III, as well as Tier I and Tier II institutions). The following recommendations would help streamline data collection and reporting processes without compromising the accuracy or integrity of the data:

a) Collection of Government Monitoring Information
Eliminate the need for lenders to record government monitoring information for face-to-face applications, in those instances where the applicant chooses to not provide the information.

While government monitoring information is vital to the utility of the HMDA data, recording GMI on the basis of visual observation or the applicant's surname is highly subjective. The data cannot be validated, and thus, the accuracy of the data cannot be assured. Most of our company's mortgage applications are taken by telephone. However, for applications that are taken face-to-face, we spend an average of 3 hours ($90) to follow up with the loan officer if the information is not recorded on the application. Further, if the applicant does not want to provide this information, lenders should be able honor the applicant's decision and not be placed in a position to second-guess.

b) **Quality Edits**
Implement a code to identify loan programs that do not require analysis or verification of borrower income, and employee loans.

The majority of Quality Edits associated with our 2013 HMDA data were related to loans where the borrower's income has not been reported on the loan register. Our 2013 HMDA submission included approximately 35 quality edits of this type (out of a total of 370 application records). All of the edits were associated with government loan programs, such as the FHA Streamline Refinance and VA Interest Rate Reduction Refinance Loan which do not require analysis or verification of borrower income, or loans to our employees. Although we were aware of the reasons why income was not reported, we spent approximately two hours ($100) to verify the edits and submit our response to the Federal Reserve. If such a code(s) had been in place, we could have avoided this additional data validation step.

c) Geocoding
Enable lenders to rely on third-party vendors to geocode HMDA loan applications, if due diligence is performed on the vendor to confirm the accuracy of its service.

Geocoding is one of the most important fields in HMDA data because that is what links the subject property to area demographic information. The accuracy of the geocodes helps to ensure the usefulness of the HMDA data. Although the FFIEC geocoder is a useful tool, it data must be entered manually on loan-by-loan basis. Further, for new developments and certain rural locations, we have found the FFIEC tool to only hit 90% of the addresses processed.

Conversely, we use third-party vendor (RATA Associates) for geocoding and submission of our HMDA data. RATA's geocoding tool is able to obtain an additional 8-9% hit rate above that of the FFIEC tool. RATA is also cost-effective, particularly for small institutions. RATA offers a web-based solution that enables the user to log into the software via the web, import the data from a data extract the lender's loan origination system or an Excel spreadsheet, scrub the data, geocode and submit for about $1-$5 per application. Security protocols are also in place to assure the confidentiality and privacy of the information. This is not intended as an opportunity to promote this vendor, yet it does illustrate how the use of a third-party vendor can be an efficient and cost-effective solution. If we were to do this manually, the cost per application would increase exponentially to $50-$75 per application.

We still perform internal scrubs of our data throughout the year, and prior to submission, at a cost of about $50 per application. However, with the use of RATA, our total cost in time and resources is about half what it would be if we processed our data manually.

COMMERCIAL PURPOSE LOANS

We process few commercial loans that are HMDA-reportable. However, on average, it costs us approximately $50 to process each reportable application. As proposed, if additional data items such as debt-to-income ratios are required, this will cause difficulty for virtually all lenders. When considering the ability to repay, lenders evaluate the commercial borrower's cash flow and do not calculate a debt-to-income ratio as is done for consumer-purpose loans. Therefore, guidelines for the computing a debt-to-income ratio for commercial loans would need to be developed to assure consistency of the data for analysis purposes. We estimate that if such calculations were performed manually, it would add an additional $50 to the cost of processing the application.

Further, many of our commercial loans to start-up businesses and other small-to-medium size businesses are secured by the borrower's principal residence. However, the loan proceeds are typically used as a supplemental source of working capital, or to purchase inventory or equipment. This calls into question whether the loan should be HMDA-reportable, as the loan is not related to meeting the housing credit needs of the borrower or the local community. In keeping with the purpose of the Home Mortgage Disclosure Act, we respectfully request that the Panel consider limiting commercial loan reportability to those where the loan proceeds to purchase, refinance or improve residential housing projects.

In closing, I would again like to thank you for the privilege to participate in this process, and hope to have another opportunity to participate in the future.

Respectfully,

Anne Byrd

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Stay in the loop:

CFPB/OMB/SBA HMDA SBREFA Panel
March 6, 2014 – Additional Comments from Rhonda R. Castaneda, SER

Since 1905 The Bank of Fayette County has served the financial needs of the citizens of Fayette County and the surrounding communities. The Bank is now a $320 million asset sized community bank with nine branches in Fayette County, Hardeman County, and McNairy County, Tennessee. We serve a socioeconomically diverse community and provide financing for $20,000 homes as well as $1,000,000 homes.

Current HMDA Procedures

We currently collect HMDA data at the loan processor level by completion of a HMDA information sheet generated by our loan processing software by the processor. There is a HMDA processor who is responsible for reviewing all possible loans that could be HMDA-reportable. That person also keeps a spreadsheet as well as inputting the information directly onto the LAR as she gets loans that need to be loaded. Edit checks are conducted manually on all LAR entries by the Compliance Officer. We submit the LAR through the DES. There is no integration of systems. The current HMDA reporting process is manual and requires expertise to enter data. The majority of community banks in this area are primarily Tier 3 reporters.

The most costly operational steps for HMDA compliance are the processors', the HMDA processor's and the Compliance Officer's time. The least costly steps are not paying for additional LOS vendor software and using tools available through the FFIEC website.

The HMDA processor estimates that she spends approximately 300-400 hours per year on the entire HMDA process which for 2013 included 152 LAR entries. The Compliance Officer spends approximately 40 hours per year on the HMDA process. We anticipate that the additional data points of the required Dodd-Frank additions will probably add one-third of the current time to what is now expended and will double the time and money expended if even a few of the additional proposed data points are added.

The average time required to complete an individual LAR entry is minimal compared to the entire time required to gather the data and ensure the information is correct. Much of the data must be gathered manually from the loan file for entry into the LAR which is a time-consuming process. We estimate that it takes at a minimum an hour for each LAR entry. If the changes are adopted as proposed, this will substantially increase that time.

Estimated Additional Time and Burden

Because we are not already tracking any of the proposed additional data points, even just a few additional proposed data points will significantly add to the time required and we anticipate that it will take at least double the time as what is now being expended.

Depending on the finalized regulation, it may entail hiring another employee for the loan department. We have already added three employees to the Loan Operations Department since the most recent changes to RESPA and Reg Z to meet the increased compliance demands. Depending on the number of additional data points implemented, it may mean that we will need to try and hire an additional employee but there just isn't a pool of qualified applicants in this area.

For example, a Compliance Officer from a small community bank recently advertised for a compliance employee in the Memphis area. She even posted an ad with the Tennessee Bankers Association. She received no applications whatsoever within six months. So even within a large metropolitan area, she was unable to find or hire either a qualified compliance candidate or someone that was interested and had the desire to work in compliance. This lack of viable candidates and the increasing demand for qualified personnel to process real estate loans can have a significant negative impact on smaller institutions; one of the anticipated outcomes may be the inability to continue offering certain products and services due to lack of qualified personnel to process loans.

Aligning HMDA Data with MISO/ULDD Standards

I, as well as all the community bank representatives that I have spoken to, am unfamiliar with these standards. Therefore, adopting these standards for HMDA will require additional training and adjustments. Dodd-Frank is already expanding the LAR significantly. This could be extremely burdensome to small entities since usually only one or a few employees are responsible for HMDA at each FI and have many other duties. This would significantly slow down the process and be very costly in terms of employee hours spent unnecessarily trying to adjust to not only new fields but new standards. Training time would be significantly impacted. MIMSO standards are not available for commercial and business loans, creating additional challenges.

Points & Fees

Not all FIs calculate points and fees the same and, in fact, most lenders within a particular institution do not calculate points and fees in the same manner. We currently do not track points and fees except as a check for HOEPA. This carries with it a high implementation and reporting compliance burden. Our current computer software systems are unable to distinguish, for example, what portion of an insurance premium charged by our insurance affiliate should be included in the points and fees test without a manual calculation. Because the amount of fee retained by the insurance affiliate may vary according to insurance product, I don't see how any vendor could set up a system to correctly identify that portion on a loan by loan basis. Therefore, this one element alone will require additional calculations. The expectations of bank examiners impose additional burdens since there is virtually no tolerance for errors, requiring additional review for precision.

I strongly feel that the proposed additional points and fees information should not be added. Specifically, separating out total origination charges could lead to price fixing and I fail to see the significance of adding any of the other information.

There is also the critical concern about protecting the privacy of loan applicants. Currently, it is relatively easy to reverse engineer HMDA data to identify individual borrowers. With the added points, it will be an extremely attractive database for identity thieves and other cybercriminals. The extensive information will also be highly useful to competitors since it will expose proprietary underwriting information. I think none of the additional points and fees information should be added but if it is, none of this information should be shared with the general public or other FIs.

Multi-Family Properties

Requirement to report whether multifamily properties have affordable housing deed restrictions could be very difficult to obtain. A lot of times affordable housing deed restrictions are not part of the deed *per se* but are instead amendments to restrictions filed as separate documents. This could become quite cumbersome to research, assuming the information could be identified. Besides, if there were any affordable housing restrictions on multifamily properties, it would be reported under CRA and the data is, therefore, already captured albeit in a different format. If you desire to identify that information, it might not be readily known to the FI and, if so, would there be any penalty for not providing that information if unknown?

Manufactured Housing

On the proposed addition of the construction method type, at least in this area, the only information that is available would be whether the home was a “mobile home” or not; there is no information on other non-traditional methods of construction. Records in the area currently do not have information about a dwelling’s construction method, such as site-built or manufactured housing.

If you are going to track manufactured housing and whether the borrower owns or rents the underlying land, you also need an additional category for “neither;” e.g. borrower is placing manufactured home on land owned by relatives and is not paying any rent.

Proposed Mandatory Inclusion of HELs and HELOCs

Mandatory inclusion of HELs and HELOCs will increase the time required by the HMDA processor to do data entry and scrub. Because open end lines of credit and home equity lines of credit are used for widely varying reasons, I do not believe that this information would be particularly relevant to HMDA purposes. Many of these loans are made for purposes unrelated to housing, like education, vacations, purchase of an automobile and so forth. Including this information will skew the data on home ownership with information that has nothing to do with housing.

There is a possibility for current non-HMDA reporters to have great difficulty trying to learn all the ins and outs of HMDA for HELOCs and HELs if the FI did not offer other consumer dwelling-secured loan products specifically because of the complexity of doing so. The Federal Reserve carefully considered and decided against including this information previously and their analysis should be factored into any decision by the CFPB.

Proposed Addition of CLTV

Reporting of combined LTV would be burdensome. Which unpaid multiple loans? Other FIs? Ones we know of? This could be an inaccurate figure if you only went off the credit report to obtain this information because some lenders do not report to credit bureaus so the data could be skewed. This could be very misleading. It would also be burdensome information to collect but would provide little useful data.

Proposed Addition of Qualified Mortgage (QM) Status

There are several definitions of QMs so the collection of this information would not be consistent for comparison purposes. Couldn't this information be used by the examiners for adverse fair lending findings if the FI made no QMs? On the surface, if this information is released to the public, it could skew the marketplace to larger lenders that only make QMs. Borrowers that cannot qualify for QM status for whatever reason would not understand the difference between a QM and a non-QM loan. This could have the unintended consequence of discouraging banks from offering non-QM loans.

Proposed Additional Information for Denied Loans

Increasing reporting of information on denied applications to include items such as property value, total points and fees, etc. does not take into consideration that in a lot of instances, the bank will not receive much information other than the customer's personal information, the property address, and the amount requested. Requiring the bank to furnish additional information for denied applications could be really burdensome. In addition, the bank would be guessing a lot of time at the information since there is no incentive for a denied applicant to provide information that was not collected. Therefore, if the change proceeds, there would also need to be an option that the information was not collected or available.

Protecting Consumer Privacy

I absolutely believe that consumer privacy is of utmost importance. I think that credit score and age in addition to the current data fields should be deleted before making the modified LAR available to the public. Additionally, I believe the total points and fees (including origination fees if this is broken out into another field), any interest rate and even the loan originator ID be removed prior to making the modified LAR available to the public.

Summary

HMDA already is a complex and difficult regulation. The examiners allow only a very low threshold for errors. Therefore, most community banks' senior and most highly compensated employees have direct involvement with the HMDA process. Most community bank employees wear "multiple hats." The changes will necessitate additional employees solely for compliance but will also be likely to cause lenders to cut back on loan products and services, particularly for marginal borrowers that do not readily meet the confines of "standard" loans.

While I understand the desire to make all the changes at once, you need to consider that there have already been massive changes that carry significant monetary penalties and the GFE and HUD are going to massively change in just a little over a year. Our loan processors struggle now to understand the complex and sometimes contradictory regulations. We want to comply but it is not easy in the least.

Resources are already thinly stretched in community banks. We are continually examined including for fair lending on a regular basis. Therefore, my suggestion is that only the additions required by Dodd-Frank be enacted. There is a cost to each additional data point which will ultimately be borne by loan applicants and which will mean marginal applicants may no longer have access to credit.

I want to thank the CFPB for the opportunity to share my thoughts as a SER representing community banks.

CFPB/SBA/OMG HMDA SBREFA Panel Meeting – Thursday, March 6, 2014

Outreach Meeting held at the U.S. Department of Treasury – Washington, D.C.

Additional Written Comments from SER Jeremy Gray, Rock Canyon Bank, Pleasant Grove, Utah:

Background: Rock Canyon Bank is a $198 million community bank based in Utah. The bank, which was chartered in late 1991, specializes in commercial loans. Rock Canyon Bank is supervised by the FDIC with 3 offices and 54 employees. The CFPB worked to classify institutions among three different tiers. Based on our loan processes, procedures, technology, and complexity, we are unquestionably a Tier 3 bank, with much of our HMDA tasks being performed manually.

1. ***The Loan Application Threshold for Reporting Should be Increased.*** As proposed, banks with 25 or less closed-end loans would be exempt under the proposal. The CFPB should consider raising the threshold to a much higher amount. As an illustrative example, based on an analysis of 2012 HMDA data, if the CFPB were to raise the threshold to 100, most loans would still get reported and there would be ample data to analyze and identify potential fair lending issues. In studying all 50 U.S. states, based on a 100-loan exemption, funded loans reported would have been 96% of all mortgage loans, with some states still reporting up to 99% of funded loans. There were 9,739,921 funded HMDA loans during 2012, and the 100 threshold still captures 9,336,103 loans, or 96%. Just in the top 25 of 50 states, over 6,100 institutions would still report data. Considering all 50 states, financial institutions (FI's) still required to report would have reached a total of 8,320 (based on 2012 data). What does the additional 3% really provide us – what is the cost-benefit of that 3% in particular? Increasing the threshold to a threshold of at least 100 loans provides for ample data collection and still fulfills the purposes of HMDA while greatly reducing burden. In fact, when adding the reportable applications for 2012, if just the top two FI's are considered (Wells Fargo and Chase), total loans are 4,321,595—accounting for 44% of reported loans! If the Top 10 are considered, the aggregate loan count jumps to 7,131,282; or 73%.

   Generally speaking, small FI's are not the root of banking problems, including discrimination, egregious violations of law, or industry-wide impact. At the same time, smaller institutions do not have the resources to keep up with the pace of regulatory change, especially considering the other economic market factors such as squeezed net interest margins, interest rate risk, influence on vendors, etc. (Please see supportive evidence in the George Mason University, Mercatus Center study on "*How Are Small Banks Faring Under Dodd-Frank?*".)

   a. ***The CFPB also must address which loans are counted for the threshold.*** Would the 25 (or other number) of countable loans be on a "per loan entry" basis or based on a "relationship" basis? For example, our LAR consists of 6 separate loans to one business entity which is an LLC. Would that count as 6 transactions or just 1? For us, just by having 2 or 3 of these borrowers could easily inflate the loans countable towards the threshold past the 25 threshold. What if the 25 applied to consumer purpose loan only? Does this practice accurately serve the purposes of HMDA?

b. ***The threshold should be based on a two-year period, similar to CRA.*** Whatever the threshold, CFPB should adopt a two-year (or similar model) look back period for reporters so that when an abnormal spike happens during one year, it doesn't automatically cause reporting perpetually or having to ride the rollercoaster of continually reporting on and off.

2. ***CFPB should define "Gross Income" clearly.*** There is much ambiguity with this data point. For example, I shared an actual example of this data point and the HMDA Help email address for clarification where the applicant's tax return listed $2k "gross income" yet the applicant had over $100k of "cash flow;" HMDA Help would not opine, indicating that since there is no definition in Regulation C, they could not provide assistance. There is a significant difference between the two incomes and yet which one is reported makes a significant difference.

3. ***HMDA Help needs to be improved.*** In the past year, to get guidance on a question, the bank e-mailed a query three times (December 2013, January 2014, and February 2014) but did not receive any response—not even a "we're researching it and we'll get back to you…". As of March 17, 2014, there is still no answer to the question. This places filers in an awkward position.

4. ***The proposed changes will entail significant costs.*** After meeting with a group of Peer Banks, every community bank expressed concern about increased costs of compliance with the new, expansive HMDA rule (and Dodd-Frank Act (DFA) requirements in general). In all cases, not one bank has a dedicated HMDA person—all of them have compliance officers who wear multiple hats and have various responsibilities. Average times for loan file scrubs were about 20-30 minutes for each file for the community banks and about half that for regional banks. One community bank is completely shutting down their mortgage division this year due to the regulatory burden—they feel it is no longer worth the cost and risk. Added requirements from more expansive HMDA requirements will only aggravate the situation.

    a. One banker told of an experience with a particular examiner. The first thing mentioned by the examiner was that, "I've made every one of the banks I've examined resubmit their LAR's". This type of examination and implementation attitude is counterproductive. As pointed out during the SBREFA panel, the role of enforcement regulators must be taken into account.

5. ***Community banks have a difficult time hiring qualified personnel.*** In connection with the above Peer Banks comment, qualified personnel are becoming harder and harder to find for community banks. Most qualified personnel end up being generously rewarded at large banks; while community bank compliance officers often must wear multiple hats within the bank and have greater workload, they get compensated less due to the already limited resources but must work harder due to lack of economies of scale at small banks.

6. ***Added costs must be considered in the process.*** Tier 3 FI's (as referenced in the CFPB's Outline of Proposals), have increased costs in processing each loan application. The new rules will

increase these costs as most of these types of FI's have manual processes. Further, software costs implemented by vendors will undoubtedly be passed on to banks, which in turn, must further pass along the costs to customers. Small banks cannot simply absorb these heavily manual cost processes and will be forced to either pass the costs along to borrowers or even discontinue offering certain products. (This is also supported by the Mercatus Center survey.)

7. ***Reporting HELOCs should be optional.*** Reporting HELOC's should continue to be optional. This product type is so unique that it is difficult to determine loan purpose and track how funds are used. Reporting all HELOCs will undoubtedly result in reporting many loans which are unrelated to home purchase or home improvement which will in turn produce misleading information about mortgage markets. HELOC's are exempt from other regulatory requirements due to their nature and we propose that they continue to be optionally reported. Reporting HELOC's does not necessarily coincide with the purposes of HMDA. If open-end credit is included, our LAR easily triples, along with any associated costs (mostly time/labor wages).

8. ***Cost of Compliance estimates should be revised for accuracy*** –

    a. Estimated cost per LAR record: for our very manual Tier 3 FI, our estimated cost is approximately $225 per LAR record. Two other FI's within our community, both Tier 2 FI's, have a baseline cost of approximately $100; with projected costs after the proposed changes are implemented being $150 per record; these two FI's are very similar in asset size.
    b. Estimated time is 45 minutes per LAR record to complete from beginning of determination of whether or not to report, from actually filing the completed record in the physical loan file, another 30 minutes for each LAR record to audit and verify the information including updating the LAR in the DES. Cost per LAR record is estimated at $225/per record. Again, this is difficult for a smaller financial institution to estimate due to the spectrum of lending personnel and salaries involved in the process, especially those in senior management that are involved in the loan underwriting and approval process.
    c. Different variables will easily have different compliance costs. For example, entering a data point of sex of the applicant/borrower is very easy. On the other hand, gross income is much more complex. Credit scores could be complex due to variety of scores, usage, etc. Collecting data points on business loans would come at a much larger cost since some of the data is not maintained in our MIS, nor is it calculated (e.g., total points and fees). Most of the new data points will require a much more manual process, equally increased compliance costs significantly. The information will either have to be retrieved manually from loan files or the data point created for the LAR.
    d. Providing the Modified LAR is very easy and comes at very little cost. However, there are few if any requests to produce the Modified LAR. It would be logical to update the regulation to direct interested parties (very, very few, if any) to get the data online via the government website (FFIEC). This would also let the government track requests.
    e. CFPB must also consider the opportunity cost of doing something more productive instead of filing HMDA data, in addition to the increased baseline costs (citing once

again the Mercatus Center Study Results). Time reporting HMDA data detracts from other opportunities, including serving customers.

f. Each additional data field translates into an additional cost and time burden for small FI's with already limited resources. We anticipate the cost per LAR record to easily jump an additional $50-$100 if the new data points are adopted as proposed. This limits our ability to effectively compete and may impact whether or not we continue to offer certain products or services. We will undoubtedly be forced to pass this increased cost onto our clients, which could further limit access to credit. Some banks are even shying away or completely discontinuing certain types of lending. Many small banks rely on non-cookie-cutter loans, and have niches in "out of the box" lending with borrowers they know well and have developed long histories with. If these types of loans become less profitable, many banks might shut that type of lending down completely, with ultimate harm coming to the consumers/borrowers who may have no alternative sources for these loans.

9. ***CFPB needs to clearly explain the rationale behind each added data point.*** We understand that having additional data provides for more robust analyses. However, at what point do we have "paralysis of analysis" from so much data, like different kinds of interest rates on the LAR?

10. ***CFPB must be Sensitive to Privacy Concerns***. Some rural areas have limited housing and population. Including data points such as age and credit score to the public raises major concerns about the pubic having more information to target individuals and know their financial situation. Some transparency is good but too much is dangerous and threatens individuals since all the additional data raises serious privacy concerns by increasing information available for and easily accessible to data thieves.

11. ***Business loans should be exempt from Reporting.*** Please exempt business credit from the LAR. As a general rule, information from business or commercial credit provides little useful information on housing or possible discrimination but can be extremely burdensome to report. Loans to businesses don't provide GMI, income, or other factors that are currently used in Fair Lending analyses. Also, small business loans are generally a large portion of small banks' LAR's. For our bank, business loans represent about 90% of our LAR every year. Drilling down to data points such as points and fees that are not applicable on business credits will be more costly in terms of staff time. These banks are still subject to Compliance, Fair Lending, and CRA exams and Fair Lending analyses can continue to be performed during these on-site regulatory examinations. This appears to be a feasible alternative (in addition to raising the numbers of loans threshold from 25 to a higher amount), especially with the increase in reportable transactions from non-DI's. Many commercial borrowers pledge their residences (both primary and secondary/vacation homes) as collateral—sometimes even as a "psychological effect"—known as an "abundance of caution". If the HMDA net includes all dwelling-secured loans, our LAR again triples over, and again it disincentives commercial lenders from taking the home as additional collateral, potentially increasing credit risk (affecting safety-and-soundness) and/or limiting access to credit for many very small businesses, especially the "ma and pa" shops throughout the country.

HMDA is already a complex and ambiguous regulation – yes, the proposal is making a few things more simple, but the net result with all these additions is more complexity and increased costs, with most likely not a parallel in increased productivity or benefit to fulfill the purpose of HMDA. Compliance expert David Dickinson has cited the complexity of HMDA as "putting a square peg in a round hole."

12. ***The Modified LAR is rarely requested.*** During a few different meetings, the question was asked how many times a member of public has requested the public LAR. Not one banker polled had ever provided a "regular" public individual a copy of their LAR based on a formal request and some of these bankers have been in the business for 30-40 years. The question was posed, "Can't the public just access the applicable information online via the FFIEC?" Excellent point: the government should be responsible for providing the modified LAR.

13. ***There Should be an Established and Clearly Specified Tolerance for Error Rates.*** Currently, the prudential regulators allow virtually no room for error on the HMDA-LAR. With the increase in data points, will there be a corresponding increase in the error tolerance? As it is now, HMDA is very unforgiving and much time is spent getting the results "perfect". It also is one regulation where examiners penalize an FI for "over disclosure". Since the tolerance is based on a percentage, when considering a bank that has small number of LAR records, this leaves very little leeway for error; this is unreasonable given that any processes involving humans inevitably involves some type of tolerable error rates.

14. ***Training Costs will increase*** both from a one-time perspective, in addition to ongoing requirements. The expansive LAR will require additional training time with lenders, assistants, processors, reviewers, auditors, approvers, etc. The fact that we train every employee who even potentially touches a HMDA loan equates with many man hours in the classroom and online. The cost to train senior level groups and the board also is a large cost considering this group is most highly compensated.

    a. Staff time for Rock Canyon Bank (RCB) is estimated at 150 hours—costs associated with HMDA include training time and dollars (both training the line staff and training the trainer), forms preparation/review, time spent determining whether or not an application is reportable, time filling out the HMDA Worksheet, transcribing that into the LAR, and then performing verifications and audits on the data based on a monthly, quarterly, and annually basis (the 18 operational steps). The largest expense is staff time – the cost is difficult to estimate due to the wide spectrum of salaries across the lending function along with the uncertainty of the final changes. A lower-end salary of a credit analyst involved in the process (i.e., collecting GMI, underwriting and calculating gross income, etc.), to a high level of the CCO or even the President of the bank. All lending staff members receive annual training, both online and in the classroom. Cost of HMDA training annually (for all types of training) is estimated at $3,000. (We also typically have two individuals go over HMDA data simultaneously, so there is an inflationary cost due to that process).

15. Upgrading DES to web-based filing and multiple users capability = good change! This will help alleviate some of the frustrations and incapability's of single-user stations.

16. The Outline of Proposals document has many hypotheticals, accompanied by "may, could, and might"; yet there are little to no strongly supported benefits for FI's and consumers. This type of vast modification should be accompanied by enhancements that strongly equate to definitive improvements and ensuing results. So far this appears to be Win-Lose-Lose: A win for the CFPB, a loss for both banks and consumers.

    a. Number of times "may" appears in document = 141; or an average of 1.72 times per page
    b. Number of times "could" = 29
    c. Number of times "might" = 20
    d. Number of times "will" = 59

17. ***Loan Originator Unique Identifiers has potential privacy implications.*** Requiring the LAR to include a unique loan originator identifier may raise privacy concerns for the officers. While it may be understandable to require banks to collect, if made public, it may be the source for possible incrimination. For example, if a loan officer originated a large number of loans the bank subsequently fails unrelated to the loan underwriting, the question arises whether this officer has a diminished employment prospect due to being identified as one of the top producers of a failed institution, under no fault on his own wrongdoing.

18. ***The Changed Demands under the Proposal Could Negatively Affect the Efficiency Ratio of Smaller Institutions.*** For YE 2013, there were approximately 5,492 FI's with Total Assets LTE $500MM. The average Efficiency Ratio of these institutions was 91.05, which is already not considered "efficient" based on industry standards. Said ratio has increased over the past two years from 74.15 and 76.26 for years ended 2012 and 2011, respectively. This is most notably a direct result of increased personnel to manage the spike in regulatory load. Small institutions are considering M&A activity based on inefficiencies, as supported by both personal knowledge and the recently released Small Bank Cost study from the Mercatus Center. One community bank in our state recently merged with another where the number one driver of the merger was compliance costs outpacing loan growth and revenues, with no relief for the foreseeable future.

Conclusion
Thank you for the opportunity to participate in the SBREFA Panel.

While the desire for more data to analyze mortgage markets is understandable, there are significant costs to producing the information. These costs affect borrowers by increasing the fees associated with mortgage loans and with reduced access to products and services. The greatest impact will be felt by marginal borrowers or borrowers who might not have access to alternatives. Each and every data point that is added to the HMDA-LAR will have an impact and will likely reduce access to credit. At the same time, each additional data point is another reduction in the privacy of consumers and the more data that is collected, the greater chance that an individual consumer will be the victim of identity theft. Finally, the burdens imposed by the additional regulatory requirements will affect the ability of community banks to continue to serve their communities, as has been recognized in the citations that follow. Thank you for the opportunity to serve as a SER and for considering the collective concerns of small institutions.

Officials & Studies Recognize the Significant Burden Already Imposed on Community Banks

19. FDIC Chairman Gruenberg's comments at ICBA Convention on March 4, 2014 underscore the impact of new regulatory mandates on smaller institutions; the loss of community banks has a negative impact on the communities and people these banks serve. Below are two excerpts from his recorded speech:

1. FDIC Research on Community Banks

I'm sure that many of you are aware that the FDIC released a major study at the end of 2012 on the role of community banks in the banking system of the United States.

This was the first major study ever done on the contribution and role of community banks in our financial system.

There were two key findings from that study that many of you may be aware of.

One, that community banks matter, and are critically important to the functioning of our banking system and economy.

The study found that community banks account for about 14 percent of the banking assets in the United States, and at the same time they account for around 46 percent of all the small loans to businesses and farms made by all banks in the United States.

With just 14 percent of industry assets, community banks account for nearly half of all the small business lending done by all banks in the United States – a critical function for our banking system.

In addition, the Study found that while there are about 3,000 counties in the United States, ***approximately 600 of them would have no physical banking presence if not for the community banks operating there****.*

So for thousands of small towns, rural communities and urban neighborhoods around the United States, if not for community banks there would be no physical access to a federally insured institution, and for a lot of communities that's vital to the survival of the community itself.

So, number one, community banks matter.

Number two is that even through this very challenging period of these past five years since the crisis, the community bank business model has actually held up quite well.

The core model of community banks, as our Study defined it, is careful relationship lending, funded by stable core deposits, focused on the local geographic community that the bank knows well.

The vast majority of community banks that stayed with that business model actually came through this very difficult period quite well.

It's true that over 400 banks with assets under $1 billion failed during the course of this crisis.

But the fact is – and we know this because the FDIC Board approves every failing bank case – those institutions, virtually without exception, departed from the traditional model and tried to grow faster with risky assets often funded by volatile brokered deposits.

And they're the ones that ended up on our failing bank list.

The traditional community banks did not.

So the bottom line findings of our Study were that community banks matter and are important to the banking system and the economy, and, that the community bank business model remains quite viable.

2. Consolidation and the Future of Community Banking

I wanted to conclude my remarks today by sharing with you some preliminary findings of a report that the FDIC is going to release in the near future on consolidation in the banking industry over the past 30 years and particularly on consolidation in the community banking sector.

I wanted to share some highlights of this work with you because I think it sheds some light on this whole issue.

The headline number that people have focused on is the fact that 30 years ago, in 1984, there were about 18,000 federally-insured institutions in the United States.

At the end of last year there were just under 7,000.

And so the obvious concern raised is there has been a substantial reduction in the number of banks in the United States, and a particular concern about the reduction in the number of community banks.

Will this consolidation trend continue? What will it mean for the future of community banks?

Clearly consolidation has taken place, and is continuing, in the community banking sector.

20. Additional quotes from a George Mason University, Mercatus Center Study, "*How Are Small Banks Faring Under Dodd-Frank?"* (Excerpts taken from ABA Daily Newsbytes and ICBA News, both daily digests from industry trade groups) also emphasize the impact of regulations on

smaller institutions which will only be aggravated by the significant changes proposed for HMDA which the CFPB must recognize as a significant cost to the proposed changes.

DODD-FRANK

Survey Finds Major Dodd-Frank Impact on Community Banks

The Dodd-Frank Act is having a significant impact on community banks and their customers, according to a study of 200 banks with under $10 billion in assets released last week by the Mercatus Center at George Mason University. ABA encouraged bankers to participate in the survey last summer.

Among the highlights of the survey:

- 83 percent of respondents reported seeing compliance costs go up by more than 5 percent since 2010.
- 93 percent said Dodd-Frank was as burdensome or more burdensome than the Bank Secrecy Act, with 66 percent reporting that it was substantially more burdensome.
- More than 70 percent added at least one full-time employee due to CFPB requirements, and more than 20 percent added two.
- 71 percent reported that their business activities have been altered due to CFPB action.

"Participating banks reported substantially increased compliance costs in the wake of new regulations," the researchers found. "These costs include hiring new compliance personnel, increased reliance on outside compliance experts, additional resources allocated to compliance, and more time spent by noncompliance employees on compliance. The increased regulatory burdens have led small banks to reconsider their product and service offerings, including considering whether to stop providing residential mortgages and overdraft protection." Read the survey.

Plan for Prosperity

ICBA: New Study Shows Need for Community Bank Regulatory Relief

ICBA said a new George Mason University study on community bank regulatory burdens demonstrates the need for targeted regulatory relief. The Mercatus Center's Small Bank Survey found that community banks serving mostly rural and small metropolitan markets have reported significantly higher compliance costs following new regulations implemented under the Dodd-Frank Act.

The survey found that compliance costs have increased for more than 90 percent of community bank respondents. It also found that this increased burden has led community banks to reconsider their product and service offerings, including whether to stop providing residential mortgages and overdraft protection.

Select Quotes on Regulatory Burden from Mercatus Center Study:

- Increased regulatory burdens have led small banks to reconsider their product and service offerings. Based on the responses, we expect that the small bank share of the residential mortgage business will shrink considerably.

- More generally, Dodd-Frank's exemptions do not appear to effectively shield small banks from new burdens. The survival of small banks is important because they are particularly well-suited to serving small communities, small businesses, and borrowers with unique needs. Regulatory burdens on small banks translate into limited options for consumers. Federal policy can support small financial institutions by freeing them from regulatory burdens that impose costs without corresponding benefits.

- Small banks were not responsible for the crisis and should not pay for larger financial institutions' missteps. Senator Dodd challenged the "myth" that "Dodd-Frank hurts small businesses and community banks" and explained that "[t]he law is squarely aimed at better regulating the largest and most complex Wall Street firms—the ones that were most responsible for the crisis and still present the most risk. Small community banks were victims of the crisis, with hundreds failing as a result of the big banks' risky gambles."

- Our findings suggest that Dodd-Frank has deeply affected small banks. They are spending more time and money on compliance and, in some cases, are shifting away from products, such as residential mortgage loans, for which the regulatory burden appears to outweigh the benefits of continued involvement. Dodd- Frank's effects differ in nature and degree across small banks, and compliance costs may moderate as regulators more clearly define regulatory requirements and banks get accustomed to complying with the new regulators and regulatory requirements. The prevailing sentiment among surveyed banks, however, is that regulatory-compliance burdens are becoming a growing obstacle to small banks' profitability and their ability to serve their communities.
- Small banks play a key role in many market segments. Community banks provide 48.1% of small business loans issued by U.S. banks, *15.7% of residential mortgage lending*, 43.8% of farmland lending, 42.8% of farm lending, 34.7% of commercial real estate loans, and hold 20% of all retail deposits at U.S. banks as of 2010." As these figures suggest, small banks are particularly important as agricultural lenders and small-business lenders.*[Small banks hold only 15% of residential loans…]*

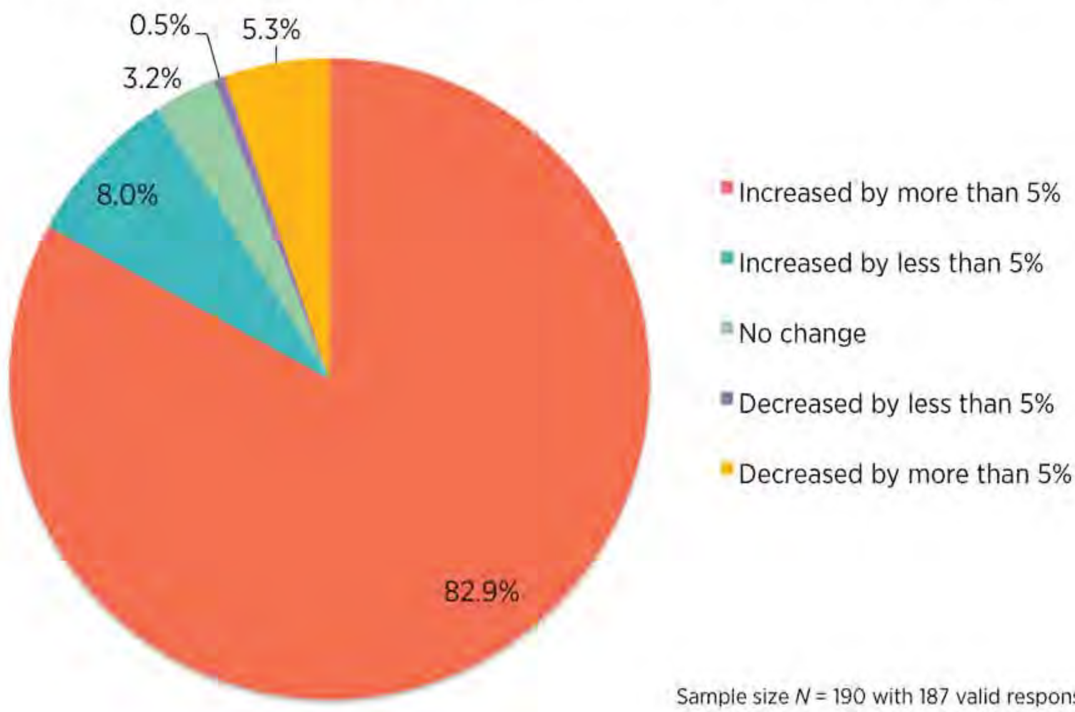
- Compliance issues may be a particular distraction for high-level managers at small banks, who already have a number of disparate responsibilities. A large part of the labor cost of complying with regulations is the time that bank officers and managers devote to compliance activities, especially the time devoted to complying with new regulations or major revisions of regulations." Compliance issues may also affect the customers of small banks. Small banks, looking for ways of recouping the increases in fixed costs, may, depending on the competitive landscape, pass these costs on to customers in the form of limited product offerings and higher prices for basic products and services. Regulatory burdens, therefore, can result in harm to small bank customers.

- The long-term ramifications of Dodd-Frank on bank customers are unclear. Some have already seen their fees increase, and respondents anticipated that additional fee increases are coming. It is not clear that consumers are benefiting from the regulations intended to protect them. Respondents expressed frustration that many of the new compliance burdens are not beneficial to the customers that these new regulations are supposed to help.

- Concern for Community Banks in general: small banks have declined from 11,058 in 1993 to 6,279 in 2013. This 43% decline is concerning, and the additional regulatory workload will undoubtedly impact the continued decline of the community bank, which has been openly hailed as a backbone to America's small businesses. Another 26% anticipate engaging in merger and acquisition activity in the next five years (Pierce, 2014, p.57).

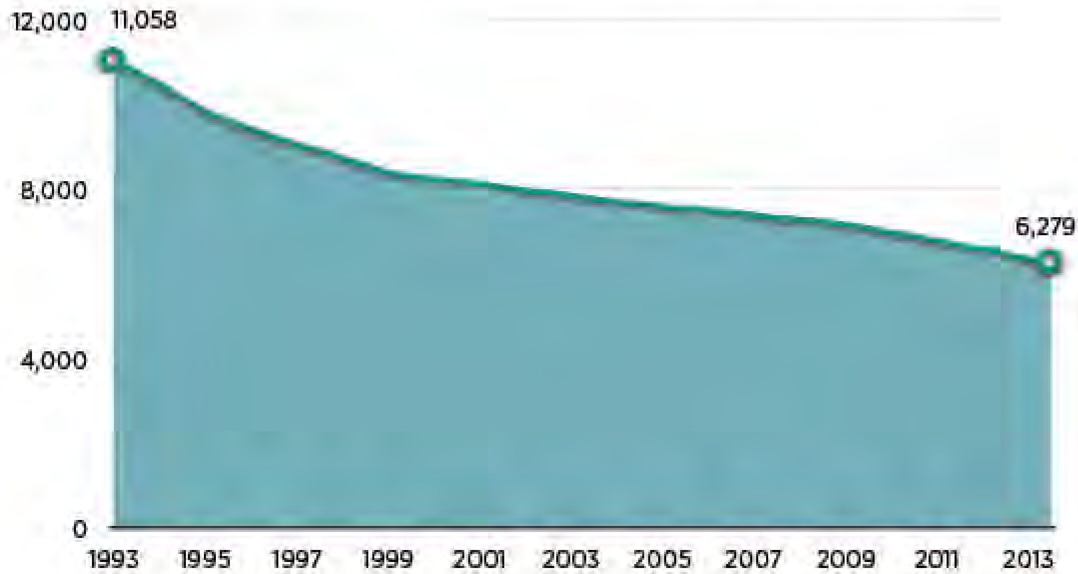
- Below charts were taken from the George Mason University, Mercatus Center study, *How Are Small Bank Faring Under Dodd-Frank?*

Figure 19. Change in Annual Compliance Costs since Dodd-Frank



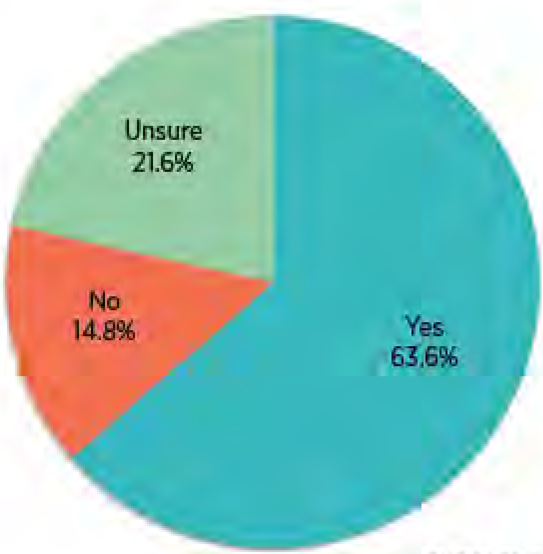
Sample size N = 190 with 187 valid responses

Figure 1. Number of Banks with $10 Billion or Less in Assets (Quarterly Data, 1993–2013)



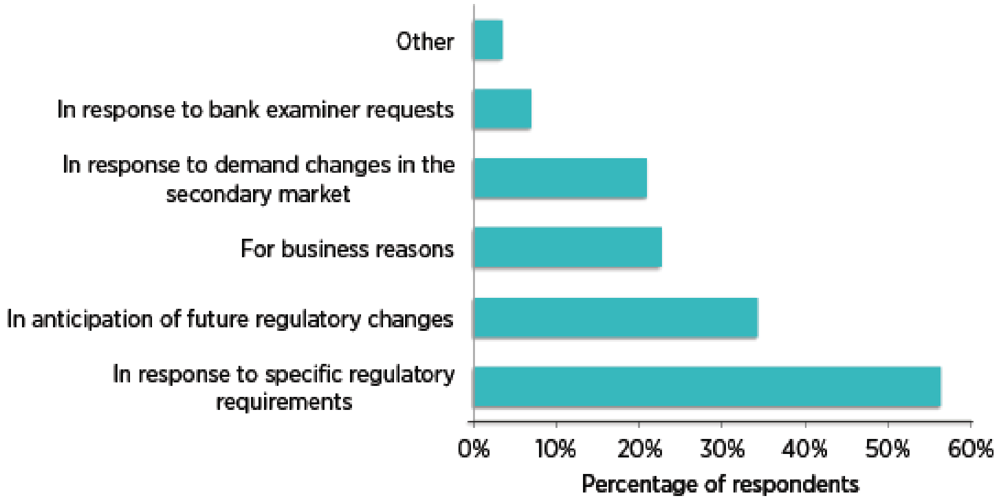
Source: FDIC statistics on depository institutions, http://www2.fdic.gov/sdi/download_large_list_outside.asp.
Notes: Institutions were aggregated under their bank holding companies where applicable. Available data did not permit thrifts to be aggregated under their holding companies.

Figure 34. Anticipate Changes to the Nature, Mix, and Volume of Mortgage Products in Response to Regulatory Changes



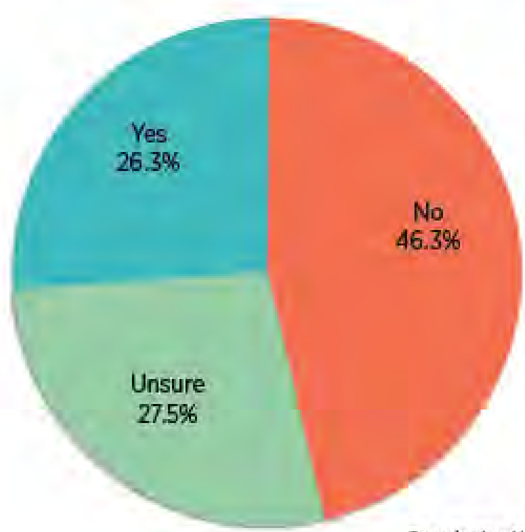
Sample size N = 172 with 162 valid responses

Figure 35. Reasons for Altering Mortgage Offerings



Sample size $N = 172$

Figure 42. Anticipate Engagement in Merger and Acquisition Activity in the Next Five Years



Sample size $N = 162$ with 160 valid responses

Respectfully submitted,

Jeremy K. Gray, CRC, CRCM, CCBCO
Small Entity Representative
Pleasant Grove, Utah

WICHITA FEDERAL

CREDIT UNION

March 19, 2014

Mr. Dan Sokolov
Small Business Review Panel Chair
1700 G. Street
Washington, DC 20552

RE: Comment letter regarding proposed rulemaking for additional HMDA data requirements

Dear Mr. Sokolov,

Thank you for the opportunity to participate in the SBREFA Outreach Meeting for proposed rulemaking on the Home Mortgage Disclosure Act (HMDA). We appreciate the opportunity to provide input during CFPB's rulemaking process to minimize costs and reduce burden on smaller creditors.

Wichita Federal Credit Union is an $80M institution serving 9,000 credit union members in Wichita, Kansas. We originated $16M in first mortgages in 2013 with an average loan amount of $120,000. We reported 247 applications to HMDA (including second mortgages) and received a total of 411 applications in 2013. We have a three-person mortgage department and our processes are 100% manual (tier 3). Our secondary market servicer, with nearly $1B in mortgages, does not use the MISMO or ULDD data format, and has no plan to change formats. Our estimated annual expense to report current HMDA data is $6,000, or $25 per application. Our estimated annual expense to report 13 additional data points required under Dodd-Frank is $1,778, or $7 per application. Our estimated annual expense to report 16 additional data points under consideration of the CFPB if $1,778, or $7 per application. There is absolutely no value or benefit for us as an institution to collect current or proposed HMDA data. The only reason we collect the data is to meet regulatory requirements.

Our primary concern in terms of additional HMDA data reporting is the "pile on" of this and other regulations the CFPB continues to implement. Incremental regulation changes over the last 18 months are now layered up to a point that it is cost prohibitive and all together unfeasible to serve some of our creditworthy borrowers. As a small institution it is a struggle to implement the myriad of CFPB regulations mandated over the last 12 months with more than 5,000 pages of published information and less than 100 days to comply. Additional reporting or compliance of any kind (including additional HMDA data points) will be overly burdensome, due to the staggering number of new regulations from CFPB and other agencies over the past two years. The recent ATR/QM rule alone has doubled the amount of time it takes to gain approval on a conforming secondary market loan, because every requirement must be documented to extremes under the new rules. During a recent credit union conference, the CFPB's Deputy Director, Steven Antonakes, stated that QM rules will have no affect on 98% of credit unions or their members. We find this statement to be absolutely false. In researching our first mortgage originations for 2013 we discovered that more than one-third of loans we sold in the secondary market would not qualify under QM rules. And while we are permitted to originate non-QM loans by following CFPB's exhaustive charts of documentation, pricing, and term rules, we have been warned by NCUA that non-QM loans will be closely scrutinized by examiners and must be tracked separately for asset liability management, loan performance, and the potential for legal risks. In other words the process will be so costly and punitive for small creditors, that making non-QM loans to creditworthy consumers going forward may not be profitable or feasible.

Added HMDA reporting in addition to new regulatory complexities increases the cost of credit to consumers, and ultimately reduces consumer access to affordable financial services. Creditworthy borrowers are being denied home financing because the rules are too stringent and lender requirements are too burdensome. We estimate that at least seven loans for $634,000 will not be made to creditworthy members in 2014 due to ATR/QM rules, because applicants don't qualify for secondary market products, and the terms and pricing for non-QM loans is too restrictive. Nearly 20% of our staff's time resources are now spent on compliance and government reporting requirements. We understand CFPB's mission to ensure another financial crisis like that of 2008 never happens again. That is our mission too, and credit unions are the only institutions who continued to loan to consumers throughout the crisis and recovery. We are the only players in the market able and willing to grant "less than perfect credit" consumers prime or near-prime financial products. It is our position that the CFPB is now "overcorrecting" the market with new rules at a time when the economy is just beginning to recover and the availability of credit is critical. In Wichita, Kansas we see a surge of newly built apartment complexes. This is a direct result of overly-tightened home financing rules that make it prohibitive for lenders to take calculated risks for non-conforming, creditworthy borrowers. Real estate investors know there will be fewer homeowners due to tightened regulations.

Regulation C, HMDA, is an outdated regulation from the 1970s whose purpose was to prevent redlining in communities, and provide public access to home lending activity data. The CFPB wants to "re-purpose" the information to monitor every single residential loan that is originated, but has yet to clearly state how the information will be used other than "more future rulemaking and providing statistics for market researchers". If half the information on a public LAR will be removed to protect privacy interests, obviously providing public access is no longer an objective for collecting HMDA data. The CFPB needs to provide clarity about the exact objective for use of the data, so the data is not misused for purposes which have no material benefit to consumers, and is only used as a marketing list for researchers and analysts.

Realizing that CFPB has a statutory requirement under Dodd-Frank to move forward with this rulemaking, we've provided a summary of our feedback, responses, and solutions from the SBREFA panel discussion below:

During the HMDA panel discussion it was clear that lenders are concerned about the fair lending examination process and the potential for punitive measures due to inaccuracies in data reporting. It seems the fair lending exams turn into "fact finding" missions to identify inaccuracies in lender's data, defeating the true purpose of the exam. The more HMDA data points the CFPB requires, the more margin for error and inaccuracies in data points the lender must account for during exams and edit processes. The HMDA data is burdensome and problematic because the rule makers (CFPB) are not the rule enforcers (NCUA or state examiners), and lenders are caught in the quagmire of interpretation while each agency has differing objectives. The process of justifying the source and accuracy of additional data points to examiners is time consuming and burdensome. We recommend the CFPB reduce the number of data points to collect only the Dodd-Frank statutorily required points, and provide as much clarity for federal and state examiners to collect and report the data.

While the data points themselves seem highly accessible and simple to report, several points from CFPB's "additional data points under consideration" are particularly prone to interpretation and inaccuracy. These include total origination charges, total discount points, risk-adjusted rate, etc. Which charges should be included in these data points? Is it to be calculated like the TIL/RESPA, the QM calculations, or other calculations? Even if the CFPB provides clarity for these data points, the process is problematic, time-consuming, and overly burdensome for lenders, particularly for exams and the HMDA editing process. Additionally the automated underwriting results (AUS) could be subject to interpretation and become burdensome to report, since loans are run through an AUS multiple times to generate different desired results. Current HMDA data already includes the action taken field which should be sufficient for rulemaking and fair lending purposes, as it is clear whether the loan was finalized or not. We strongly recommend the CFPB exclude all CFPB "additional data points under consideration" which are unnecessary to fulfill statutory requirements under Dodd-Frank, and only serves to increase the burden and cost of HMDA reporting for lenders.

One concern we have with the proposed additional data points is the parcel ID. Currently we have no issues with geo-coding, but we are concerned the CFPB will create an alternate means of identifying properties that will unintentionally become more burdensome and time-consuming for lenders. If the government wants to accept the burden of geo-coding while the lender only provides the property address, obviously we would be in favor of that methodology. However if the government is unable to geo-code from the address given, and plans to return exceptions to the lender for correction, we would not be in favor of that methodology, and would prefer continuing with the current geo-coding process.

Privacy and confidentiality of information is paramount, and the CFPB needs to address their lack of a plan to maintain privacy of our member's information. We go to extremes to protect our member's data, and to earn and maintain our member's trust. The agency intends to continue sharing HMDA data with "other regulators, local governments, other industries, researchers, and consumer advocates". How will the agency protect lenders and consumers from damages associated with the sharing of this private data? Credit score, age, income, loan amount, loan number, date of application, and date of action taken should be deleted from the LAR which allows public access. It is ironic that a process originally created to provide public access to data, now has to be suppressed from public reporting. This reinforces the need for CFPB to state clearly exactly what they intend to accomplish by collecting the additional data. Increasing the cost of credit for the purpose of providing more information to market researchers and analysts is not in the best interest of consumers.

In addition as part of the effort to maintain privacy, the agency should exclude employee loans from reporting requirements, since the LAR is a publically accessible document. Also some fields could offer ranges of data to be reported, such as income to provide more privacy and reduce the margin of error, while providing the information necessary to determine fair lending standards.

The on-line DES would be helpful, however we will only gain fractional efficiencies, and our HMDA data collection process will continue to be 100% manual (tier 3). Our secondary market servicer has stated they have no intention of moving to MISMO or ULDD data formatting, so there are no efficiency gains for us in moving to those formats.

We are in favor of discontinuing reporting for home improvement loans that are not secured by a dwelling.

Commercial loans (or any non-owner occupied property secured by a dwelling) should be excluded for HMDA reporting purposes. Business purpose loans are income-producing investments for business owners, and other consumer regulations do not apply to these loans. Additionally if most of the HMDA boxes are marked “N/A” because businesses are entities (not natural persons), what is the purpose of reporting these loans? Also commercial loan amounts are typically higher than consumer loan amounts, which skews the data and may make loan amounts appear disparate on public LARs.

We agree with the CFPB that home equity lines of credit should be excluded in HMDA reporting to reduce the reporting burden on small financial institutions.

Collection of additional data points (if implemented) should not be required until 2016, with reporting by March 1, 2017. The sheer number of rule changes over the past 18 months from CFPB and other agencies is staggering. We are still in the process of finalizing compliance with QM rules. Small institutions will continue to disappear with the “pile on” of compliance and reporting burdens, leaving no competitive product offerings for “less than perfect” consumers.

IF the HMDA data points must be expanded, we ask that only the statutorily-required Dodd-Frank data points be added to the required data. The CFPB “additional data points under consideration” would undoubtedly be overly burdensome and problematic to report. While this particular proposal seems minor in terms of added manpower, the reality for small creditors is the layers of rules over the last 18 months forces us to choose between meeting the needs of our creditworthy borrowers or spending time complying with the regulatory tsunami of rule changes from CFPB and other agencies.

If small creditors make up only a fraction of overall first mortgage loan originations, CFPB should consider requiring additional Dodd-Frank data points only for creditors who originate 500 or more loans per year. These creditors have the manpower and systems to report the data efficiently. Depository institutions (DIs) who originate between 25 and 500 first mortgages per year could continue reporting under the current HMDA data requirements (without Dodd-Frank or CFPB additional data points).

To summarize, HMDA is only one piece of the myriad of regulations we must navigate every day in order to meet the needs of our members with affordable credit products. Each incremental regulatory change has significant and long-lasting effects, which when added up, reduces our ability to meet basic consumer credit needs. Indeed the very consumers CFPB seeks to protect in their rulemaking process, will continue to be caught in a lifecycle of landlords, pawnshops, and payday lenders. Maintaining some degree of flexibility in the system is critical, to allow lenders the ability to take calculated risks and meet the credit needs of consumers.

Again we appreciate the opportunity to comment and participate in the SBREFA panel process, and appreciate consideration of our comments during the CFPB's rulemaking process. If you have any questions or need additional information please don't hesitate to contact me directly at 316.941.0606.

Respectfully,

Jane Hammil

Jane Hammil
President/CEO

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Ross, Rachel (CFPB)

From: Paul Jarosz <pjarosz@oxford-bank.com>
Sent: Monday, March 10, 2014 4:28 PM
To: CFPB_HMDA_SBREFA
Cc: Edmonds, Andrea (CFPB)
Subject: RE: HMDA SBREFA: thank you and follow up
Attachments: Data Points Notes.doc

Attached are some additional notes I had regarding the proposed new data points. Most of the information was covered in the panel, but there are a rew new nuggets.

Hopefully, the information is self-explanatory, but if anyone wants to followup on any of the information, my contact information is below.

Again, thanks for this unique opportunity to give feedback on the proposed changes.

Paul J. Jarosz, CRCM
Senior Vice President, Director of Government Compliance
Oxford Bank & Trust
1111 W. 22nd Street, Suite 800
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"Travel is fatal to prejudice, bigotry, and narrow-mindedness." – Mark Twain

If you forward this on, please remove any email addresses before you send it. And use the BCC feature when sending an email to several people at once.

From: CFPB_HMDA_SBREFA [mailto:CFPB_HMDA_SBREFA@cfpb.gov]
Sent: Friday, March 07, 2014 2:54 PM
To: 'r.aresti@360fcu.org'; 'dbergl@inovafcu.org'; 'abyrd@seattlebank.com'; 'rcastaneda@thebank1905.com'; 'rachaelc@secfedbank.com'; 'jeremy@rockcanyonbank.com'; 'ggriese@socu.com'; 'jhammil@wichitafcu.com'; 'pjarosz@oxford-bank.com'; 'glight@hstmortgage.com'; 'cody@cascadeloans.com'; 'lphillips@atcu.com'; 'trasmussen@newwindsorbank.com'; 'chrissi.rhea@migonline.com'; 'jim.ryan@jmafcu.org'; 'jschmid@foxriverstatebank.com'; 'sstrong@amerifirst.com'; 'samv@fsb-wv.com'; 'mwhite@bankofzachary.com';

'teresa.whitehead@chl.cc'; 'mwilliams@yourbank.com'
Cc: Edmonds, Andrea (CFPB); Kayagil, Joan (CFPB); Essene, Ren (CFPB); Ryan, Kathleen (CFPB); 'Shagufta_Ahmed@omb.eop.gov'; Cochran, Kelly (CFPB); Ross, Rachel (CFPB); 'Smith, Jennifer A. (jennifer.smith@sba.gov)'; 'Radwan.Saade@sba.gov'; 'Maresca, Charles A. (Charles.Maresca@sba.gov)'; 'Hamilton, Angela T.'; Kearney, Thomas (CFPB); Dietrich, Jason (CFPB); Liu, Feng (CFPB)
Subject: HMDA SBREFA: thank you and follow up

Good Afternoon,
Thank you for participating in last yesterday's panel meeting. We really appreciate the time you took out of your busy schedules to participate in our meeting yesterday, as well as the two earlier teleconferences. Your willingness to share your time and expertise was critical to the success of this event. The information we received was extremely helpful, and we are looking forward to reading your written comments. In that vein, please submit written comments to this email address, cfpb_hmda_sbrefa@cfpb.gov, by Thursday March, 20th. Additionally, if you have any follow up questions, you may also email them to cfpb_hmda_sbrefa@cfpb.gov or call Andrea Edmonds at 202-435-7790.

Again, many thanks for your time and effort.

Sincerely,

The HMDA SBREFA Team

Confidentiality Notice: If you received this email by mistake, you should notify the sender of the mistake and delete the e-mail and any attachments. An inadvertent disclosure is not intended to waive any privileges.

Dodd-Frank Additions

Application/Loan Information

- Total points & fees
  - Must provide and define examples (And would they be based on Reg Z?)
- Rate spread (for all loans)
- Prepayment penalty term
- Introductory interest rate term
- Nonamortizing features
  - Must define and/or provide specific examples
- Loan term
- Application channel (retail, broker, other)
  - Must define and/or provide specific examples
- Universal loan ID
  - Will be difficult to standardize
  - Will require training & will be susceptible to errors
  - What exactly is the purpose of this? To track a loan over its life?
- Loan Originator ID
  - I'm assuming that this is the NMLS number? But what number to use if several loan staff are involved in the loan process?

Property Information

- Property value
  - Cost, market, or income approach?
  - No "appraisals" for manufactured homes – generally NADA valuations obtained over the Internet.
  - Would there be a stale date? That is, is there a limit as to how old it can be?
  - N/A if adverse action
- Parcel ID
  - What if manufactured home and borrower doesn't own land?
  - Parcel number may be needed for personal tax purposes, but not for all states (For example, does apply for IL & IN.)
  - IL parcel numbers contain anywhere from 10 – 14 numbers; increases the probability of errors; will Fed geocoding catch errors?
  - Manufactured home parcel numbers are not uniform, they can vary from county to county and state to state. All are lengthy, which increases the chances for errors. Also, parcel numbers may not be available at the time the loan is booked.
  - Parcel numbers for new subdivisions may also not be available at the time the loan is booked.
  - Still report if Adverse Action?

Applicant/Borrower Information

- Age

    - Applications normally ask for birthdate. Calculating the birthday would be an additional step and is fraught with potential errors. Do you round up or down for age? When is the calculation date? As of the application date or the action date?
    - Adding two more data points = two more potential errors.
    - PRIVACY/PHISHING ISSUE – Can be tied back to Parcel ID
- Credit Score
    - Adding two more data points = two more potential errors.
    - Experian, TransUnion or Equifax? Or a hybrid?
    - PRIVACY/ PHISHING ISSUE – Can be tied back to Parcel ID

Additional Data Points Under Consideration

Application/Loan Information

- Automated underwriting systems results
- Making it mandatory, rather than optional, to report the reason an application was denied
    - We already include this information
    - PRIVACY/ PHISHING ISSUE – Can be tied back to Parcel ID
- QM status of loan, as determined by the FI
    - This would be based on an institution's *opinion*. The bank may consider the loan to be a QM, but what if its regulatory rules otherwise? Would a resubmission be required?
- Combined loan-to-value ratio
    - Would have to clarify difference between LTV & CLTV and how each is to be calculated, but what if a FI uses different customized ratios? More work and more chance for errors in reporting.
    - PRIVACY/ PHISHING ISSUE – Can be tied back to Parcel ID
- Additional points & fees information, including:
    - Total origination charges
    - Total discount points
    - Borrower's risk-adjusted, pre-discounted interest rate
    - Interest rate received
    - Must provide and define examples (And would they be based on Reg Z?)
    - More info to collect, more chances for errors

Property Information

- Replacing property type with the number of units financed and the dwelling's construction method
    - How to account for mixed-used buildings?
    - Must provide and define examples of construction method (What purpose does this serve?)
- Whether multifamily property has an affordable housing deed restriction
    - Must all units be covered?
    - Only applies to 5+? What about 1-4?

- What if there is no specific legal restrictions, but the rents are below HUD Fair Market Rents?
- Information concerning manufactured housing:
  - Whether the loan is secured by real or personal property
  - Whether homeowner rents or owns the property where home is sited

Applicant/Borrower Information

- Debt to income ratio
  - "back-end" = total debt
  - "front-end" = housing only debt
  - For each borrower? What if one has a high DTI and the other a low DTI and is carrying the loan?
  - Will be difficult to come up with a standardized calculation
  - PRIVACY/ PHISHING ISSUE – Can be tied back to Parcel ID

Other Information

- Unique FI entity ID number (to modify or replace the current Reporter's ID number)
  - Will be difficult to standardize
  - Will require training & will be susceptible to errors
  - For what purpose? Why change what's being used now?
- Considering amending/expanding existing data points
  - Income - PRIVACY PHISHING ISSUE – Can be tied back to Parcel ID
  - What about if the person is a first-time homebuyer? This might be a useful new data point.
  - Mandatory reporting of HELOCs – perhaps a code specifically for HELOCs and Reverse, without classifying at purch, HI or refi?
- What is the value of reporting a commercial loan which meets the definition of refinance? What about collateral taken as an abundance of caution? These types of loans aren't really what HMDA is about?
- How to differentiate between "business credit secured by personal assets" from "personal credit for business purposes"?

From:	Cody Pearce
To:	CFPB_HMDA_SBREFA
Cc:	Cody Pearce
Subject:	Written SBREFA Panel Commetns
Date:	Tuesday, March 18, 2014 6:10:59 PM

March 18, 2014

Consumer Financial Protection Bureau- SBREFA HMDA Panel

I appreciate the opportunity to be part of the SBREFA panel in regards to HMDA. I am the President and Co-Founder of Cascade Financial Services an Independent Mortgage Bank based in Gilbert Arizona specializing in Government Financing of Manufactured Homes on land (real property not chattel) in 33 states. Cascade has been in business since 1999. Over the past few years our origination volume has hovered around $130,000,000 annually.

While I absolutely understand and appreciate that Dodd-Frank requires some changes to HMDA I do have concerns about the impact of the regulatory burden and costs. When I started this company in 1999 I admit that there were very few barriers to entry. Too few!!!! However, today it seems as though the pendulum has swung so hard to the opposite extreme that the barrier to entry is so steep that it will keep good competition out of the market. HMDA reporting is a great example. Software vendors will be able to create and provide the statutory changes. Then we, as a small lender, will incur yet more costs in purchasing the software and the accompanying updates, bringing on additional personnel, training current and new employees and purchasing updates and additional subscription fees to our HMS. We have been capped on what can be charged on loans and yet the operational costs to originate a loan have gone up dramatically and continue to go up. I project that there will be more acquisitions and mergers as smaller companies just can't keep up with regulatory and compliance burdens so they will look for opportunities to fold into larger corporations which means fewer lenders on the street. Fewer lenders, means fewer choices for home buyers which means that the underserved markets will most likely continue to be underserved. As a company that has spent its entire existence providing financing to first time home-buyers in the affordable housing sector these additional costs are daunting.

I welcome good strong common sense oversight and regulation, but I encourage The Bureau to balance all decisions with caution and a real-time measure of the economic impact on the companies who must bare the burden. It's difficult at this time to quantify the cost of implementation in particular due to the new software and the related updates being a large variable. But, for my small company I would anticipate in salaries, software and time somewhere north of $100,000. I'm hopeful that it wouldn't be more than this but fearful that it might.

I urge the bureau to meet the requirements of HMDA, however don't over collect purely for the sake of over collecting.

Another concern is the cost of protecting so much data. Since we are required to collect this data, yet would be liable if it were stolen it becomes extremely concerning and thus another cost is added to the growing list. I would urge that data be collected in bands which will protect borrower's privacy and lower the consequences in the case of a data breach.

I strongly urge the use of an Industry Data Standard such as MISMO. The cost of creating and maintaining multiple formats is unnecessary when a standard format is available.

I would say that the largest concern to a company like Cascade is the monetary cost and penalties associated with inadvertent errors. If the data requirements are not clearly defined then confusion will follow. We are fearful of monetary penalties due to reporting errors. This is in particular difficult for small companies financially as well as consequences related to reputation.

Whatever the implementation is we need software that eliminates error messages for non-applicable fields, such as income on Streamline Refinances and VA IRRRL's. Correlate the software with Census Tract information to automatically determine whether or not a loan is located in a higher income and respectively higher priced market.

We know that the CFPB wants and needs additional data but each new field adds additional burden and adds to the risk of costly mistakes. Dodd Frank has added significant changes to HMDA. I would caution The Bureau on going too far above and beyond Dodd Frank until proper tracking and analysis can be made on the changes implemented by Dodd Frank.

We support fully the governments desire to handle the Geo-Coding. As long as the government would also assume the risk of any misreporting.

Once again I am grateful to have been a part of this process and look forward to the results of the SBREFA Panel.

Sincerely,

Cody Pearce, CMB
President
NMLS #103676
CASCADE
Cascade Financial Services
Direct Line: 480-812-3236

MORTGAGE INVESTORS GROUP

March 20, 2014

Thank you for the opportunity of allowing Mortgage Investors Group to be a part of the SBREFA panel. I appreciate the process CFPB is using to analysis the concerns of the industry while trying to balance the requirements of Dodd Frank. I believe the discussion and feedback from the industry, especially the Small Entities, will be invaluable for you in determining any additional changes needed for HMDA data collections.

My Company was founded in 1989 and we now have 22 retail branches across the state of Tennessee, closing around $1billion in volume with an estimated 6500 units. At present, we do already collect many of the fields CFPB is proposing, but do have some concerns with reporting consumers personal data with the additional fields. The increased information does invite evaluation that can bring erroneous assumptions from potentially incorrect information or erroneous evaluation which could lead to the pursuit of frivolous legal action from special interest groups.

Again, thank you for the opportunity to spend the day with this panel and the CFPB on this matter. I was able to gain some additional insight on processes and operational efficiencies from discussions with the other panel members.

Please let me know if there is anything else I can provide to the CFPB. My contact information is below

Chrissi Rhea
President/CEO
Mortgage Investors Group
865-691-8910

Please see comments and discussion points on the following 3 pages

MIG COMMENTS AND DISCUSSION POINTS:

1. TOPIC 1: Use of MISMO & ULDD.
   Comment – These industry standards are widely used in all LOS systems. Utilizing these existing standards will keep costs down and allow for a smoother addition of collecting new data points.

   a. MIG collects the data into the LOS (PCL & Avista) and exports to vendors for multiple purposes utilizing these standards currently.
   b. MIG would have minimal programming to associate data fields in LOS with data points not already established… which are very few.
   c. Time – 4 hours programming by 2 people - $30 X 4 X 2 = $240

2. TOPIC 2: Data Points - DFA Additions and Additional Data Points:
   - Comments –
     - Only real property should be required to be reported on HMDA.
     - Allowances should be made for Withdrawn or denied files that came to that status before certain detailed information could be obtained; such as, Manufactured property form of ownership.

   A. Total Units: 1 or 2-4 should be adequate - Since consistent with current breakdown, no cost to MIG if existing industry designation is adopted.
   B. Multifamily affordable housing: MIG is a residential only lender. However, seems that without specific definition, it could be difficult to determine whether this designation is applicable.
   C. Age of Borrower: DOB is captured on each application, HMDA vendor should be able to program to convert to age. However, the suggestion of using age range would be preferred by MIG for privacy reasons.
   D. AUS results: Y or No : MIG feels this data point could be construed as contradictory to others and provide a mixed signal on the final action taken, since this is not a sole factor in the decision process. We are not in favor of adding.
   E. Loan Originator NMLS ID: MIG captures this info already and due to RESPA it is public record on the DOT. However, definition when the Originator ID is applicable; such as, a conclusion of the action taken (only originated loans) is needed for clarity and consistency in documentation.
   F. Total Pts & Fees: MIG is not in favor of including this point in the HMDA LAR. Too many variations per multiple regulations.
   G. Same as F for Discount Pts & Interest rate
   H. Risk-adjusted interest rate: MIG sees this as a Privacy breach – due to cr score, LTV and other elements that are included in risk based pricing. This would not give a novice viewer enough information to form an accurate conclusion.
   I. Interest rate: MIG sees this as a Privacy breach – due to cr score, LTV and other LLPAs that are factors in determining the interest rate. Additionally, the features of the HELOC product would require enhanced definition. This would not give a novice viewer enough information to form an accurate conclusion
   J. QM Status Flag: Not currently a data field; but could be added to basic LOS Programming. All variations would need to be covered in definition.

Attached is spreadsheet with information about which are currently captured, reported and comments about additions.

3.TOPIC 3: Modernization of the HMDA Process

- Geocoding tools; such as FFIEC tool and vendor developed captured information.
    a. MIG received full geocoding information from vendor that performs the flood determination and that information is imported into the LOS, or
    b. If the transaction does not have a flood determination, the vendor used for HMDA analysis, editing, reporting, etc. employs an import/export to FFIEC for geocoding and/or geocoding checks.
    c. There are other systems that are much more user friendly than the DES.

- Submission & Editing Process
    a. The Edit Check for Validity and Quality that are standard to HMDA fed software have been replicated by a number of vendors, making this data check available to the reporting entity at any point in time; such as quarterly
    b. HMDA Analyzer by Compliance Ease is highly recommended by MIG.
    c. Timely responses from the HMDA Help desk would be helpful

4. TOPIC 4: Institutional & Transactional Coverage:
    a. The volume, assets and locations of MIG have required HMDA reporting since non-financial institutions were included.
    b. Only 25 per year seems a very small number that would serve little benefit to regulators or consumer advocate groups. Quantities such as 250 seem more beneficial to all parties.

- Discussion:
    - Yes, MIG would have been required to report
    - 2013: Non-originated, but reportable transactions
    - Estimated cost of reporting reportable transactions not originated: Approx. $22,000 per Yr. for monitoring, plus training, etc. See attached 18 HMDA Operational Steps for more info on cost
- Transactional Coverage:
    - MIG reported 8446 for 2013. 100% were dwelling secured
    - None of the loan types listed on page 32, 2, were received or originated by MIG. Either not a part of our product line or the transactions were placed with another lender making the cr decision; therefore, that entity reported the transaction.
    - No change in MIG product line is expected.

5. TOPIC 5: CFPB Proposals Under consideration
    a. MIG has received no requests from the public for a copy of the annual HMDA Report.
    b. The estimated cost of responding to a request is anticipated to be $65.00
    i. MIG feels that the since all the information is available from .gov websites, the public finds that the preferred source.

6. TOPIC 6: Cost of Credit Analysis
    a. Spreadsheet of 18 HMDA Operational steps attached has an added column with MIG projected costs currently
    b. Both spreadsheet attachments provide added cost comments from MIG

SUMMARY COMMENTS & OVERVIEW BY MIG:

7. Comment: MIG is concerned about privacy issues with too much specific transactional information. Agree that ranges could be a better approach in areas such as age, Cr score, discount pts, LTV, CLTV, etc.

8. Comment - Suggestions for added clarity
   A. Expanded and consistency in definitions in order to assure conformity, specific clarity to when a transaction becomes an application will aide in determination of whether a transaction is to be included.
   a. It is MIG recommendation that the RESPA definition of an application be adopted for HMDA/Reg C. The 6 elements that are required to be an application are stated and if any are not present there is no application to report. Those 6 elements are: Name, SSN, DOB, Income, Prop Address, Prop Value, Loan Amount. Anything less is considered an inquiry and not required to reported on the HMDA LAR. Conformity between regulations on such beginning points makes the process smoother and less time consuming for the creditor.
   b. The return of the Inquiry definition as an exemption from HMDA Reporting due to less than a full set of data is present when Shopping for a Mortgage is taking place by the consumer.
   B. Expanded definition of refinance in cfpb publications; such a, HMDA Getting It Right, official interpretations, and other directives

9. Potential for added costs. MIG feels that the additional data points will be instrumental in drawing litigation of a Class Action nature to a larger number of mortgage entities due to the these added points presenting a more specific profile of individual transactions and the potential for erroneous assumption. Or perhaps the additional information could invade the privacy of a consumer, even to the point of solicitation. Due to the cost of retaining legal representation skilled in the residential mortgage industry and its regulations being very high, the ultimate cost of operations will increase which will not be absorbable by the originating entity.

10. Feasible alternatives:
    a. Do not re-create the wheel – contract with existing vendors that have developed systems to access government websites, replicated HMDA edit checks, provide comparative analysis reporting and web-based interfaces that currently make the process as smooth as possible.
    b. Adopt only the DFA required data points at this time; making additional points optional giving the industry the opportunity for self-reporting and the ability to spread the cost over a longer period of time. This is would be especially instrumental to keeping the consumer costs down since a number of other CFPB Final rules have been implemented earlier this year. The total cost for all is yet to have had time to be fully determined by the industry.
       i. Utilize ranges of information to avoid privacy issues
       ii. Utilize existing Mortgage Industry Standards that are already in existence where ever possible. While the very small entities may not employee currently, an existing set of standards should not be set aside because the expanded use would be clearly be the least costly for all involved.

18 HMDA Operational Steps (for collecting and reporting HMDA data)				Mortgage Investors Group Cost Est
Data Collection	Step 1	Transcribing data	Entering loan application data, Government Monitoring Information, and any other information required to be reported to regulators under HMDA into a data system (e.g. LOS or Excel spreadsheets)	$143,000 per year ($22 per unit) LOS Costs for capturing and storing data
	Step 2	Resolving reportability questions	Determining if an application is reportable under HMDA	$29.00 per Mo – Approx 1 Hr
	Step 3	Transferring data to HMS	Transferring data to an HMS	$29.00 per Mo – Approx 1 Hr
Reporting & re-submission	Step 4	Complete geocoding data	Determining the state, MSA, county and census tract where the property is located	$29.00 per Mo – Approx 1 Hr Automated interface with Flood Cert
	Step 5	Standard annual edit and internal check	Checking data for completeness and running edits throughout the year and prior to submission	$58.00 per mo – Approx 2 Hrs Initial set-up to establish protocols for capturing data by aggregator – Approx $500 1 time cost
	Step 6	Researching questions	Consulting with one or more HMDA help sources or examination staff to resolve questions arising from edits and checks	$14.50 per mo – Approx 30 min Vendor helpdesk, by e-mail
	Step 7	Resolving question responses	Resolving contradictory responses received from multiple HMDA sources and/or examination staff	Very insignificant to date
	Step 8	Checking post-submission edits	Checking, verifying and resolving all edits on submission report	$88 per mo – [4 Hrs per mo approx]
	Step 9	Filing post-submission documents	Filing post-submission documents once all edits have been addressed	$88 – 3 people 1 Hr per Yr [Annual event]
Reporting &	Step 10	Creating public LAR	Creating a HMDA-LAR dataset excluding	$29 – 1 Hr per Yr

Re-submission cont'd			application number, action date and application date	[Annual event in preparation]
	Step 11	Distributing public LAR	Responding to requests for the public LAR	NA - No Requests to date
	Step 12	Distributing disclosure report	Responding to requests for disclosure reports	NA – No Requests to date
	Step 13	HMS/geocoding software	This step refers to the cost of purchasing an HMS with geocoding capability	HMDA Analyzer incorporates FFIEC geocoding as a feature – Cost $6,000 Yr
Audits	Step 14	Training	All HMDA-related training offered to any staff member throughout the year	$2,500 per year [Branch visits, travel, etc]
	Step 15	Internal audit	HMDA-related audit tasks conducted by internal staff throughout the year	$22,000 per year or $1,833 per mo [1 FTE as reviewer 86 hrs mo]
	Step 16	External audit	HMDA-related audit tasks conducted by external firm or outside counsels throughout the year	$200 per year
	Step 17	Exam prep	All steps to prepare for a HMDA verification exam	$7,000 per year [3FTE 2 wks]

MIG Total Estimates: Steps 2-18 Above: $43,109 Annually

Step 1: Est Cost of gathering application info by licensed staff: $143,000 Annually

Exams	Step 18	Exam assistance	All steps taken to assist and respond to examiners conducting a HMDA verification exam	$2,322per year [2 FTE 1 wk]

Pg2

RESPONSE FROM CHRISSI RHEA - MORTGAGE INVESTORS GROUP:
HMDA SBREFA REVIEW PANEL: DATA POINTS

DF ADDITIONS & OTHERS	CURRENTLY COLLECTED	CURRENT METHOD COLLECTION & RETENTION	PURPOSE COLLECTED/ REPORTED TO OTHERS	ESTIMATED ADD'L COST TO COLLECT & RETAIN
1. Loan Terms	Y	LOS/ULDD	Investor	NONE
2. ARM Introductory Period	Y	LOS/ULDD	Investor	NONE
3. Nonamortizing features	Y	LOS/ULDD	Investor	NONE
4. Property Value	Y	LOS/ULDD	Investor	NONE
5. Security Type	N	ALL ARE REAL PROP	N/A	ADDED LOS FIELD
6. Manufactured Prop Interest	Y	LOS/ULDD	Investor	NONE
7. Total Units	Y*	Single Family or 2-4 captured by LOS	Investor	No Add'l cost if format of Agencies is adopted
8. Multifamily affordable housing	N	N/A	N/A	Nothing over 4 units originated
9. Age	N (DOB)	DOB collected in LOS	Investor	DOB converted to Age Range for HMDA as of Appl Date
10. AUS results	Y	LOS/ULDD	Investor	NONE
11. Loan originator ID	Y	LOS/ULDD	Investor	NONE
12. Application channel	Y	LOS	Investor	Convert internal info to designation; ie 1= Retail; 2=Wholesale
13. Credit Score	Y	LOS/ULDD	Investor	NONE
14. Denial reasons	Y	LOS	HMDA Optional	NONE
15. Total points & fees	Y	LOS	Investor	LOS TO CONVERT
16. Total originatoin charges	Y	LOS	Investor	LOS TO CONVERT
17. Discount points	Y	LOS/ULDD	Investor	NONE
18. Risk-adjusted interest rate	Y	LOS	Evaluations	NONE
19. Interest rate	Y	LOS/ULDD	Investor	NONE
20. Prepayment penalty terms	N	LOS	Investor	NONE
21. Debt-to-income ratio	Y	LOS/ULDD	Investor	NONE
22. Combined LTV ratio	Y	LOS/ULDD	Investor	NONE
23. Reverse Mortage flag	N		N/A	
24. HELOC flag	N	N/A	N/A	

Comments:

Cost of LOS to add fields to identify required points is difficult to determine; however, as a CFPB required data collection it is expected to be low because conformity to regulatory/agency requirements is a part of current contract and a customarily in the past has been accommodated as part of standard updates.

March 19, 2014 - MIG

From: Ryan, Jim
To: Ross, Rachel (CFPB)
Subject: CFPB HMDA SBREFA Panel Comments
Date: Thursday, March 20, 2014 5:49:25 PM

Ms. Ross,

We were able to discuss many items regarding the proposed changes to the HMDA reporting process at the Panel meeting on March 6, 2014. As a small entity representative, we were asked to follow up with some final comments and provide any figures that could support our comments. I would like to comment on the potential 25-loan threshold for reporting.

JMAFCU is a manual HMDA reporter. JMAFCU reported five loans for 2012. It took a staff member (FTE) two days to complete the report. The addition of HELOCs and, in so doing, meeting the 25-loan threshold will mean JMAFCU's work time will likely increase from two days to two weeks. The associated expense for the additional time required to complete the report equates to one day of JMAFCU's budgeted net income for the year. The inclusion of HELOCs and the proposed additional data elements (more than double) will exponentially increase the time required to complete the report. Please do not include HELOCs in the threshold or, if you do, please increase the number of loans for the threshold.

Thank you.

Jim Ryan, CCUE
President
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VIA EMAIL

March 19, 2014

Ms. Rachel Ross
Office of Regulations
Bureau of Consumer Financial Protection
1700 G Street N.W.,
Washington, DC 20552
CFPB_HMDA_SBREFA@CFPB.gov

RE: SER Written Comments to SBREFA Panel HMDA Outreach Meeting.

Dear Ms. Ross:

The Fox River State Bank is a $73 million total asset state bank located in Burlington, Wisconsin; a rural community with a population of approximately 10,500. We are thirty-five (35) miles outside Milwaukee and eighty (80) miles north of Chicago.

I appreciate the opportunity to have participated as a Small Entity Representative (SER) to the Bureau of Consumer Financial Protection's (CFPB's) Small Business Review Panel as it considers the economic impact revisions to the Home Mortgage Disclosure Act (HMDA) will have on our small community bank. Our last HMDA LAR consisted of 93 entries. Fox River would be considered a Tier-3 institution based upon CFPB's HMDA SER materials. Our HMDA LAR process is manual and is generally performed by four (4) employees; overseen by myself. To further assist CFPB with its rule promulgation, I offer the following comments.

As an active participant within the financial industry, I am intimately aware of CFPB's role in the implementation process of many consumer financial protection rules and regulations as a direct result of the Dodd-Frank Act. And, within that role I recognize the various interests CFPB need balance as between consumer protection and those offering financial services. However, I cannot stress enough that small community banks *did not* cause the financial crisis. We did not participate in or offer risky securitizations of loans; did not offer non-documentation loans; nor did we extend credit without first verifying and determining that an applicant had the ability to repay a loan. However, at every turn, we are shackled with the ongoing costly burden to implement a plethora of new regulatory requirements—which, to date, has resulted in the additional overhead costs of $10,000; a cost that is still rising.

Currently, our costs associated with HMDA include costs related to data collection, data entry, training, audit, and examination preparation and responses. These costs average $2,500 annually.

Implementation and Ongoing Compliance Costs Will Certainly Be Passed on to Customers

Let's face it—additional required data collection and reporting results in increased costs for any financial institution. However, as a small community bank the reality is that we unfortunately have limited options for immediate recoupment of increased implementation and ongoing compliance costs. As was shared by many SERs in the March 6th in-person meeting, where possible, costs associated with upcoming HMDA revisions will most certainly be passed on to both commercial and consumer customers. Based upon estimates, I anticipate the additional cost of $4,500 to implement the HMDA revisions under CFPB's consideration. I also anticipate an additional ongoing compliance cost of $2,500 to comply with CFPB's proposed HMDA requirements.

When, and whether, these costs may be fully recuperated from loan customers (including from small business customers) remains to be seen. However, based upon recent market trends, I am doubtful that full recovery will be realized anytime soon. The loan rate and fee environment in our area of Wisconsin is extremely competitive. Small community banks are at a severe disadvantage as not only do we not have the loan, deposit account or other financial services volumes necessary to easily recuperate implementation and ongoing compliance costs, but we must also compete against large financial institutions on rate and fee structures for loans and deposits/services which significantly limits any option for us to raise rate and/or fee structures. As a small community bank, we do not have the economy of scale necessary to easily absorb these costs.

By way of perspective, our current average business loan is $250,000 and our average consumer mortgage loan is $185,000. With the increased costs associated with 2010 Interagency Appraisal Guidelines, there is very little fee margin for Fox River to remain competitive against larger institutions—who can more easily absorb these rising costs.

To minimize these cost increases, CFPB must implement a rule to collect ***only*** those data points specifically identified as required under the Dodd-Frank Act; and, must adjust the compliance burden to be proportionate to the size and complexity of any given HMDA-reporting entity.

Proposed 25 Closed-End Mortgage Origination Threshold Must Be Increased

I absolutely support CFPB's intention to level the playing field for depository banks to require non-depository lenders to report HMDA data. Such a requirement is long overdue. However, the proposed mortgage origination threshold of twenty-five (25) (basically—2 loans per month) closed-end home purchase or refinance mortgage loans per year must be increased. As is outlined further below, a depository bank with less than 100 HMDA LARs for a year does not provide enough data to perform a meaningful fair lending test—yet I would still be required to invest in staff, training and software to implement and manage the increased data reporting CFPB proposes.

I recognize CFPB's efforts to balance HMDA reporting coverage for both depository and non-depository institutions but I recommend that the proposed mortgage origination threshold apply only to non-depository institutions. Alternatively, if the mortgage origination threshold were to apply to depository institutions, I recommend the threshold be increased from two (2) per month to at least twenty-five (25) per month.

I believe that setting a mortgage origination threshold at this higher limit would provide regulatory relief for small community banks by providing them a meaningful exemption and would be consistent with small creditor exemptions found in other regulations (*i.e.,* QM, servicing rules, etc.).

Commercial Purpose Loans, Loans to Trusts, and Loans to Bank Employees Must be Excluded from HMDA

As was demonstrated many times by nearly every SER in last week's meeting, it is difficult to collect HMDA data on commercial loans and the information reported significantly skews the reported data. While it is relatively clear which consumer-purpose residential mortgage originations and denials are HMDA reportable, reporting is less clear when the mortgage relates to a business-purpose loan. For example, a new commercial-purpose loan origination secured by a 1- to 4-family primary residence would not be HMDA reportable. However, a refinance of that same transaction is HMDA reportable. Of the average 100 LARs submitted for a small community bank, less than five (5) percent are business-purpose loans. I believe this type of reporting provides no meaningful data for fair lending testing purposes.

Additionally, commercial-purpose loans are vastly different from consumer-purpose loans on many fronts: rate and fee structures; balloon, interest-only and/or prepayment penalty terms; loan term; what data is collected and reviewed for general underwriting purposes; the determination of debt-to-income ratio; and other ratios. Many of the new data points CFPB seeks to collect are not applicable to commercial-purpose loans. For example, there would be no result under an Automated Underwriting System (AUS), no loan originator ID under SAFE Act, and no credit score. Additionally, data reported for items such as for income, property value, and points would be greatly disproportionate as to a typical consumer-purpose dwelling-secured home loan that the data is significantly skewed.

The same concerns are true for the reporting of data when the applicant is a trust. Respectfully, I do not believe reporting "N/A" or "none" for much of the HMDA LAR because the applicant is an entity is of any help to meet the intended purpose of HMDA.

As I recommended in last week's meeting, bank "employee" loans should be excluded from HMDA LAR reporting. Often times these loans are priced lower than the standard market rate and have no fees as a benefit to an employee. I also fear that non-public information, such as an employee's income or credit score, may become accessible to other bank employees as a result of HMDA reporting. Since employee mortgage loans are limited in number, I believe the reporting of these loans on the HMDA LAR brings no value to HMDA's purpose or fair lending tests.

For these reasons, I recommend CFPB remove all commercial-purpose loans from HMDA LAR reporting as this would: (1) be consistent with other consumer protection rules, such as the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA), which exempt business-purpose loans; and (2) reduce our HMDA reporting burden. This would reduce our current compliance cost by more than

$1,000 annually (higher salary staff would be less involved, including: commercial lenders and compliance managers).

I also recommend loans to trusts and loans to bank employees be excluded from HMDA LAR reporting. Additionally, these exemptions would further simplify which mortgages are HMDA reportable and would eliminate commercial staff from the HMDA reporting process. I also believe these exemptions would eliminate inconsistent interpretations from bank staff and regulators, and would provide for a more meaningful database for fair lending tests.

Report Data as Ranges Where Possible to Protect Privacy of Applicant

Due to the potential number of inaccuracies when collecting and reporting HMDA data under both the current and proposed data points, and of concern over the privacy of applicants' non-public information, I recommend that, where possible, data be reported as a "range of values" rather than as exact data. This should include data such as: gross income, loan amount, credit score, age, debt-to-income ratio and any other personally sensitive non-public information which must be protected from any potential misuse by identity-theft thieves.

I believe that reporting data as a range of values, where possible, would eliminate a substantial number of errors currently found on a HMDA LAR; would better protect the privacy and identity of applicants; and would not compromise the integrity of the HMDA data or its purpose.

Definition of Application, Pre-qualification and Pre-approvals Clarification

Many banks continue to issue pre-qualifications and not pre-approvals due to the confusion related to the definitions of: application, pre-qualification and pre-approvals under Regulation C. These definitions have been opened to many interpretations between bankers and regulators and it would be helpful if CFPB could provide clarity to these definitions. I would recommend aligning the definition of "application" with the integrated RESPA/TILA mortgage disclosure rules so that there is consistency in terminology and use. I would also recommend CFPB clarify what is considered a withdrawal of an application and how to handle commercial loans which do not have the same application process as consumer-purpose loans. I believe clarification on these topics would reduce costs and burdens associated with trying to obtain a reliable interpretation of whether a particular credit request is HMDA reportable. I also believe it would improve the data quality as it would eliminate pre-qualified and pre-approval loans from the HMDA LAR which otherwise may be filled with "N/A" data.

Home Equity Loans and HELOCs Should Not be Included in HMDA LAR

I greatly appreciate the efforts taken by CFPB in its review of the HMDA data collection and reporting processes to identify potential areas where improvements in efficiencies may be made. However, I strongly object to CFPB's consideration of requiring all home equity loans and home equity lines of credit (HELOCs) be reported on the HMDA LAR. This requirement alone would impose significant burden on small creditors as it will absolutely increase costs in staffing, training and reporting. Based upon the type of staff and training I would need to implement at Fox River, I anticipate an additional cost of $4,000 annually for our small bank of under $100 million in total assets.

A number of data points would not be available for these types of products (particularly for HELOCs) which will result in the report of “N/A” (*i.e.,* loan ID, AUS results, QM, additional points, non-amortizing features, and others) on the HMDA LAR and will lead to confusion and errors in the reporting process. In addition, some banks consummate a simultaneous second mortgage or HELOC within the same calendar year—making data collection and reporting all the more onerous.

I am also concerned that the requirement to report home equity loans and HELOCs on the HMDA LAR will result in skewed data. For example: (1) if parcel ID is used as the primary identifier, this could lead to duplicative reporting; (2) often the purpose of a home equity loan or HELOC is not for home improvement, thereby not meeting the definition of “home improvement” for reporting purposes; and (3) small banks typically have tougher credit standards on these type of equity products as related to purchase or refinance transactions. This results in a greater disparity in combined loan-to-value (CLTV) data as between purchase or refinance transactions or larger creditors’ standards. I also fear that for those banks who do relax credit standards on home equity loans (for example, those who may offer a loan with high CLTV with no PMI requirement) or HELOCs, the skewed data may give the inappropriate appearance of subprime lending.

For these reasons, <u>I recommend CFPB not require home equity loans or HELOCs be reported on HMDA LAR</u>. At minimum, HELOCs must remain as optional reporting. CFPB should not implement this change in the type in reportable transactions unless it can prove there is an economic and consumer protection benefit which greatly outweighs industry cost to implement such a change.

Improved Data Collection and Reporting Systems Must Be Dynamic

Many small community banks utilize data entry software (DES) as they find it cost prohibitive to deploy an HMS integrated system. HMDA input is typically completed post-closing so that the information is accurate. As a result, integrating the data collection process with a loan operating system (LOS) is not as effective or efficient because it forces a bank to work backwards in the data collection and reporting process.

Additionally, as was expressed by many SERs last week, downloading and installing DES to a single workstation can become problematic when workstations are re-deployed to keep pace with technology changes, or when point personnel are not available when access to DES is necessary.

To assist with an improved, more efficient, data collection and reporting process, I recommend CFPB create a web-based DES solution which may be accessible by multiple workstations and/or users—but be secure from access or review by the public and regulatory agencies until the HMDA LAR has been “scrubbed” and submitted by the bank for public use.

I also recommend the system be as dynamic as possible; allow for defaults to be added and be editable. For example, if commercial-purpose loans are still required to be HMDA reportable, for all data points for which “N/A” or “none” is the applicable code, the system should automatically fill all applicable fields with the correct code.

Modified LAR Should Be Made Available Electronically Via FFIEC Website

DES already has an option for providing HMDA LAR data for public use and it deletes a series of data points so as to mask and protect certain applicant information. I would expect this programming to continue with the proposed data points considered non-public or private data. However, as was proven via a poll of SERs last week, requests by the public for modified LAR information is almost non-existent amongst community banks. I recommend removing the public posting requirement from Regulation C and instead transfer this responsibility to CFPB by making the modified public LAR available through the Federal Financial Institutions Examination Council's (FFIEC's) website, similar to information released via the Consolidated Report of Condition and Income (Call Report) or the Uniform Bank Performance Report (UBPR). I believe this recommendation is in step with many changes in technology since HMDA and Regulation C were first introduced; reduces the burden and cost of printing and distributing LARs to branch locations; reduces the possibility of violation for not providing the requested information within the time required by Regulation; and still makes the information readily available to the public.

Clear and Timely Interpretive Guidance Must be Made Available; CMP Structure Must be Revised to More Fairly Impose Penalties Based Upon Reportable Loan Volume; Examination Process Need be Revised

As was stressed many times by the SERs last week, clear and timely interpretive guidance must be made available to limit varying interpretations of HMDA by regulators. Several examples were shared which demonstrated real-life disconnect in agency interpretations of HMDA requirements. There are no such disparities in interpretations in other consumer protection rules—why so for HMDA? Clarity is imperative because of the civil money penalties (CMPs) so easily assessed under HMDA.

I believe CFPB has the authority to incorporate an inclusion of a HMDA LAR "error formula and tolerance percentage" while performing a HMDA LAR validation test. I believe this inclusion would bring consistency and fairness to the examination process across the agencies. For example, the Federal Deposit Insurance Corporation (FDIC) uses the formula: number of LAR entries in error/total files sampled (where one data point in error = entire LAR entry in error). I suggest the formula: number of data points in error/number of data points completed in the sample; with an error tolerance of five (5) percent for determining a valid HMDA LAR for fair lending purposes. I believe this type of formula will result in a much more fair accuracy test for small community banks.

For example, a bank with 100 LAR entries would have ten (10) mortgages sampled by FDIC. This constitutes 240 data points for verification. If the Examiner in Charge determines that three (3) data points were in error (regardless of their intention) on three (3) different LAR entries, each LAR entry is considered to be in error. Based on the sampling of ten (10) this would result in a 30% error rate and the sample size would be increased by another 10%. If this pattern continued, the bank would be subject to a potential CMP and a "scrub" of the entire 100 LAR entries. Under my recommendation, the three (3) errors would be counted against the entire 240 data points, thus producing an error rate of 1%. I do not believe this warrants punitive damages assessed by FDIC, or by any other regulator, and deems the HMDA LAR valid for additional fair lending test.

I also recommend CFPB include a statement similar to footnotes as found in Regulation Z, Truth in Lending, that a bona fide, unintentional error is not a violation of the

Regulation. Examples of an unintentional error include: entering the value "N/A" instead of "none;" incorrectly rounding up or down to nearest thousand; or entering an incorrect age due to a miscalculation of an applicant's date of birth. I do not believe these errors cause a significant impact to the reasonableness and accuracy of the HMDA LAR and would help lessen the concern over the expansion of reportable data points.

As I mentioned briefly above, even with a "pass" validation test by a regulator, there is not enough data contained within the HMDA LAR for a small community bank with less than 250 LAR entries per year for a regulator to perform a fair lending test. Our regulators consistently go outside the scope of our HMDA LAR and perform side-by-side loan file comparisons. Several other SERs also expressed similar treatment by examiners in the March 6th in-person meeting. I believe this type of procedure clearly demonstrates the fact that the HMDA LAR offers no real benefit to consumer protection where small banks are concerned. I recommend that small community banks that file less than 250 entries per year not be subject to a "validation" test by a regulator for the purpose of fair lending review.

Specific Comment on Dodd-Frank Act Additions and Additional Data Points.

I offer the following specific comments regarding Dodd-Frank data and additional data points CFPB is considering:

Loan Term: CFPB need be clear within its commentary what it means with respect to loan term; in particular, for those loans with an amortization schedule which is different than an initial loan term. For example, loan has a term of 5 years but is amortized over 30 years. Does an institution report a loan term of 5 or 30? This issue was a nightmare in 2009 under revised RESPA disclosure rules as it was unclear how to properly disclose a loan's term until a subsequent FAQ was issued on the topic. So as to avoid such uncertainty from the beginning of rule promulgation, CFPB must include clarification on this matter within its commentary to Regulation C.

ARM Introductory Period: CFPB must be clear within its commentary what it means with respect to an adjustable rate mortgage (ARM) introductory period. Certainly, if a particular loan product is a traditional ARM product with an initial period for which the initial interest rate is set, the identification of the introductory ARM period is clear. However, a traditional ARM product is far from the only product which allows for a rate change after consummation that may be offered to a consumer. CFPB must also take into consideration those loans for which the consumer is in control of the initial rate period. For example, under the terms of the loan contract the consumer selects the date that the introductory rate is to end. For such a product what period is the bank to report?

CFPB may take the position that for those types of loans where the consumer is in control of an introductory rate period that theoretically an introductory period could be one day—the introductory rate could change the business day after loan closing. However, in reality, a one-day introductory rate period would never happen. I believe the reporting of an ARM introductory period in this fashion would provide no meaningful data.

Or what is the bank to report if an introductory rate is lower until the consumer closes a deposit account at the bank? Or stops voluntary automatic payment? Or if the consumer receives a discounted rate unless he/she leaves employment of a bank or leaves employment of bank's customer? To assume a loan has a particular ARM introductory period when in fact a rate change may never occur, I believe will skew the reported data—a result contrary to CFPB's many statements last week that all of its efforts were to ensure the collection of accurate data. I recommend CFPB exclude from reporting this data point any loan which does not have a clearly identified ARM introductory period.

Total Units: I would recommend CFPB limit the data collection regarding total units to two classes: (1) 1- to 4-family unit; and (2) over 4-family units. I do not believe the collection of data regarding whether a unit is 2- or 3-family is of any assistance to further the intended purpose of HMDA or fair lending.

Security Type (real or personal property): CFPB need clarify within its commentary to Regulation C what a bank may rely upon for the determination of whether a particular dwelling is a manufactured home or a traditionally built "stick home". As was shared last week by several SERs who specialize in manufactured home-secured lending, it is often extremely difficult to identify a distinction between these two types of property.

Additionally, how does CFPB plan to reconcile any inconsistency in state law regarding how state law may treat a manufactured home verses a traditionally built "stick home?" For example, Wisconsin treats a manufactured home with no real estate as personal property, chattel—not real estate. As a result of this treatment, pricing and terms for such loans are different than a traditionally built "stick home." Lenders in states where manufactured homes are treated as chattel very likely price loans differently than lenders whose state law treat manufactured homes similar to traditional "stick homes." Lenders should not be unfairly accused of not offering the same type of product, rate or fee structures merely because of differences in state law requirements. I believe unfair treatment could occur with the collection of this type of information within the HMDA LAR.

Another option discussed with the SERs last week was to possibly identify whether property is: primary, secondary or investment. If this option is ultimately proposed, CFPB must be clear about how each category is defined and identified. For example, how does a bank identify property held in the name of trust—as investment property? Or does that determination depend whether the grantor/settlor resides in the property? Or is it determined by how much time the grantor/settlor resides in the property? Does that determination change if instead it is the third-party trustee and not the grantor/settlor who resides in the property? This is another reason why loans to trusts should be excluded from HMDA.

And how is the security type determined if the property is owned by an LLC or other business structure—is that considered investment property? What if the LLC is a husband/wife member LLC and the husband and wife reside in the property—is the property still considered investment property or is it now a requirement that the bank further identify whether the property as primary verses secondary of the resident members? This is another reason why loans to trusts should be excluded from HMDA.

How would bank identify a mixed property type of property? Many properties are structured in a way where the business owner operates the business on the first floor and resides on the second floor. Is that considered principal or investment property? Does that determination change based upon how many residential units may be in the building or if the business owner only resides in the residence part-time? I recommend

CFPB provide as much clarification on these types of matters to avoid misinterpretation or contradictory interpretation as between regulators.

Age: CFPB need clarify which age of the applicant is to be reported—age at time of application or an applicant's age at time of loan consummation. As age is not a stagnant period, greater clarification is necessary for accurate data collection and reporting. This is an item where reporting a range rather than exact data would be more helpful for data collectors and reporters.

Use of MISMO/ULDD Standards: CFPB has proposed to align HMDA data collection with MISMO/ULDD standards. While this would be an acceptable proposal, I would remind CFPB that home equity loans, HELOCs, business-purpose loans, loan denials and withdrawn applications would not align themselves with MISMO/ULDD standards. Additionally, a large number of small community banks do not subscribe to MISMO/ULDD standards making the proposal an additional training cost to those institutions, including ours. I would recommend the use of MISMO/ULDD standards be optional—not mandatory.

Automated Underwriting System (AUS) Results: CFPB has proposed the reporting of Automated Underwriting System (AUS) credit request results. I recommend that AUS results be omitted from CFPB's proposal as a number of small community banks do not use or rely upon an AUS system for making their credit decisions. In some cases, I also believe an AUS inquiry may be run with negative results, but a bank may choose to assume the credit risk and hold the mortgage in its loan portfolio rather than sell the loan to an investor. I believe that a number of AUS values will result in "N/A" or will lead to skewed data when an AUS result is obtained, and is therefore reportable as CFPB has proposed, but not relied upon by the creditor when making the final credit decision. Should CFPB retain AUS results as a reportable data point, I would recommend the reporting of AUS results be optional—not mandatory.

Loan Originator ID/Loan Identifier: The recently effective mortgage rules require bank and its mortgage loan originator's (MLO's) NMLS unique identifiers to be included on a number of documents. The upcoming combined RESPA/TILA documents will have a similar requirement. I recommend CFPB streamline Regulation C requirements with Regulations Z and X for purposes of loan originator ID. I believe there is no other consistent industry-wide numbering system for the identification of the bank and its MLOs. There should be no other number that either bank or MLO must obtain or use just for HMDA LAR reporting purposes when the SAFE Act has already established an industrywide numbering and tracking system.

I recognize that the requirement to report a loan identifier is not an easy task as each creditor has its own need for particular information within its loan number. However, banks must not be forced to implement some type of bar-code functionality nor should banks be required to completely reinvent their loan numbering systems for HMDA LAR reporting purposes. This programming change alone for a small financial institution can exceed $3,500 for implementation, with ongoing cost exceeding $2,000.

In the creation of a loan identifier number, CFPB must be certain to provide clear interpretation of when that number is to change. For example, does a loan identifier number change when a loan is refinanced or renewed? Or does it change if it is refinanced by another lender verses if refinancing with the same lender? Does the loan identifier change when a construction loan is then converted into permanent financing? What if the borrower changes, *i.e.,* original loan was to one borrower however at time of refinance borrower is now married and requests an application as joint borrower with spouse, or one borrower as died, or property was transferred to a trust and now all parties seek to have the trust as borrower rather than the grantors/settlors personally identified as borrowers on the note? Would these changes result in a new loan identifier even though it is really the same loan?

Whichever determination may ultimately be made by CFPB regarding whether certain circumstances may require the assignment of a new loan identifier, I recommend CFPB provide clear interpretation that the mere change or reassignment of a loan identifier, by itself, does not result in a "refinancing" as defined under Regulation Z section 1026.20.

CFPB has proposed the possibility of using a parcel ID number for loan identifier. I would caution over the use of this type of number as I fear it may lead to potential privacy issues and identify theft. I also believe this type of number will not be available for withdrawn or denied applications.

<u>Credit Score:</u> I would recommend CFPB be as clear as possible regarding what credit score is to be reported (or not) on the HMDA LAR so that the industry does not experience the same uncertainty it experienced when revisions were made to credit score disclosure requirements under other areas of law (*i.e.,* Regulation B/Equal Credit Opportunity Act adverse action notices, Fair Credit Reporting Act notices, and risk-based pricing disclosures).

There are times when more than one credit score is used and other times when no credit score is used (nor collected) in the determination of whether to extend credit to a consumer. There are also times when some type of averaged score (*e.g.,* average score of the one borrower or average score of all borrowers) is used and times when a proprietary, non-consumer reporting agency score is created and used.

In conversations with other Wisconsin bankers, there are many institutions that do not use credit scores in the determination of whether to extend credit or in setting the terms of the credit; many Wisconsin creditors are not involved in risk-based pricing. I believe credit score is an item that reporting a range would be more helpful to data collectors and reporters.

<u>Combined Loan-to-Value (CLTV) Ratio</u>: CFPB has stated it is considering whether to require banks to report the combined loan-to-value (CLTV) relied upon in processing applications. This is another area that I believe will create a skewed view of a bank's lending practice when a bank may extend credit on a home equity loan or HELOC and the CLTV is in excess of supervisory guidelines. I fear this would give an unfair appearance that a bank targets sub-prime customers. In addition, CLTV (like LTV) can be arrived under several methods (*e.g.,* market value, cost replacement value, sales comparison approach, and others). This is also an area where commercial-purpose CLTV data will greatly skew reported CLTV data as commercial-purpose CLTV calculations can be very different than consumer-purpose CLTV calculations in many ways. Should CFPB include CLTV as a required data point, I recommend clear interpretative guidance of how specifically CLTV is to be calculated to avoid reporting errors and inconsistent regulatory interpretations.

Denial reasons: HMDA currently provides for optional reporting of loan denials. I believe this data should remain optional reporting and CFPB should not require the report of denial reasons. This is an area of data that I fear can be a *grave* privacy concern. Alternatively, should CFPB require this data to be reported there are often times when more than one reason for a denial exists—as permitted under ECOA. Is a bank to report only one reason? And, what is bank to report if each of the multiple reasons for denial is of equal bearing? I also request CFPB be mindful that there are many times when denial reasons are not as simple to identify as merely marking a pre-formed checkbox selection. CFPB must also be clear in its guidance that it will not be a HMDA violation if the reason reported on HMDA LAR is not verbatim to how a reason is identified on adverse action notices. There is limited space for the reporting of information in the HMDA LAR which may not lend itself the necessary space to list information exactly how a reason for denial may have been explained within an adverse action notice.

Total Points and Fees/ Total Origination Charges/Discount Points/Risk-Adjusted Interest Rate: Of the proposed data collection, the data listed within this section is the *most* complex due to there being no clear definition of what these terms really mean; how it may or may not be collected under other areas of Regulations (including differences as between depository institutions and non-depository institutions); or how the data is to be pulled apart. I do not recommend these types of data be required reporting data points.

As an incorrect HMDA report results in CMPs, and will most definitely jeopardize data integrity so keenly sought after by CFPB, this type of data collection must not be required until such time as it is very clear under the recently effective mortgage rules what all of these terms mean or what fees are to be included, or not. This is also an area of regulations greatly impacted by the integrated RESPA/TILA disclosure rules which we are only just beginning to work through to fully identify the difficulties in consistent collection and reporting of this information. I very strongly recommend consistency between all regulations regarding how the fees are defined, calculated, and disclosed. Again, I do not recommend these types of data be required reporting data points.

Interest Rate: Which interest rate is to be reported? Initial? Maximum ever? Maximum within an initial period of time? How would those general requirements change if consumer has the option to change rates? Or if different balances have different rates, *e.g.,* available line of credit balance has one interest rate and closed-end non-draw amount of line of credit has a different interest rate. Or what if one rate is applicable during the construction period but a separate rate becomes applicable for the converted permanent financing?

Prepayment Penalty: CFPB must take into consideration that not all prepayment penalties are the same—not all are calculated on per/month basis. Some bank's prepayment penalty is based upon a percentage of an outstanding balance. How would bank report prepayment data when, at loan consummation, bank would not know what amount to include as reportable data since bank would have no idea when a borrower may decide to prepay any given loan?

As is similar to the reporting of an ARM introductory period, CFPB may take a position that for those types of loans where the prepayment penalty is a percentage of the outstanding balance, that theoretically, a penalty amount could be reported as a percentage amount based upon the loan amount—the loan is prepay paid one business day after loan closing. However, in reality, the prepayment of a loan one day after loan consummation would almost never happen; thus the reporting of a prepayment penalty amount in this fashion would provide no meaningful data.

A similar situation would arise when a loan may have a prepayment penalty if the loan is prepaid in the first three (3) years (or similar time period) so that the bank may recuperate closing costs the borrower elected to finance rather than to pay in cash at closing. However, if a loan is not prepaid during that period, there is no prepayment penalty. How would bank report prepayment data? I believe this is yet another area where the reporting of a prepayment penalty data when in reality the imposition of penalty rarely occurs will distort HMDA LAR data.

Debt-to-Income Ratio (DTI): I recognize this particular data point is not a mandate under Dodd-Frank Act and that CFPB has discretion over what it may require for HMDA reporting. Respectfully, I strongly recommend CFPB not require the reporting of DTI ratio.

An institution's DTI ratio will vary as between loan products and as between lenders. As the collection of HMDA data is for the purpose of further determining fairness in lending, I do not want to be faced with a situation where because our DTI ratio for consumer loans is lower than others in our lending area our DTI ratio data would inappropriately be used against my community bank.

Under the recently effective mortgage rules, with exception to the 43% DTI ratio under the general qualified mortgage (QM) standard, there is not a set DTI ratio mandated by federal regulations. Instead, it is left for the creditor to determine (based upon its own risk appetite) what particular DTI ratio is acceptable for a particular loan product. I believe that had Congress intended this particular item to be a required data collection point Congress would have mandated it so under Dodd-Frank. I believe Congress understood the fact that a DTI ratio is based upon a creditor's risk appetite and understood that taking DTI ratios out of context - as it would be on HMDA LAR - would unfairly reflect against creditors who have a lower, more conservative DTI ratio than those who are more aggressive with their risk. CFPB must not require the reporting of DTI ratio. If CFPB where to require the reporting of DTI ratio, I would recommend reporting the DTI ratio that was used in making the credit decision.

Code for qualified mortgage (QM) Loans: CFPB has proposed the reporting of a code to identify whether a particular loan is a qualified mortgage (QM). I recommend CFPB refrain from collecting a code for QM status. Alternatively, I recommend CFPB refrain from collecting a code for QM status until after any temporary QM exemptions have sunset.

Is the QM code to be used only as QM is defined under CFPB's Regulation Z rules? What about QM under other Agency loan programs? Is there to be a different QM code for different types of QMs? As CFPB would know, several Agencies, under Dodd-Frank, are required to issue rules to identify how each define "QM" under their own program rules who I believe have yet to finalize those rules. Until those Agencies have completed that process creditors will have difficulty identifying whether a loan is or is not QM under certain Agency loan programs for HMDA reporting purposes.

A number of small community banks are exempt from several of the QM provisions until further study and determination is made (*i.e.,* temporary small creditor balloon payment mortgage exemption). For those small community banks under small creditor exemptions who enter on the HMDA LAR DTI's lower than the general QM 43% DTI ratio, that data may give the appearance that a small creditor could potentially be targeting only certain customers when in fact other underwriting factors, not included in the HMDA LAR, are present (*e.g.,* high net worth, supported liquid assets, and others) or the creditor is merely complying with the rules as the exemption permits. The data of reporting a QM code must be able to be reconciled with other data that is perceived by CFPB to be a negative feature, such as balloon feature, when in fact there are times these features is permitted.

If CFPB requires the reporting of a code for QM loans, I recommend CFPB provide very clear interpretation of its intended use of this data, how others should interpret the reporting of this data, and how to reconcile that a HMDA LAR may report of QM loans even though other required data reporting the same creditor reports non-amortizing features (*i.e.,* small creditor QM balloon payment mortgage) or high DTI ratios. In a jointly issued guidance, the federal banking agencies have stated that a bank's selection to make QM and/or non QM status loans is a bank's business decision based upon their own business strategies and risk appetite and that decision would not be taken into consideration for purpose of fair lending or under the Community Reinvestment Act (CRA). If this is the case, reporting QM or not QM data code in HMDA LAR is not appropriate as the principal purpose of HMDA is to review data for purposes of fair lending issues. HMDA reporters should not be harmed if its LAR reports it only makes non-QM loans; this is data I fear will most certainly be used against the reporter.

Conclusion

Once again, I appreciate the opportunity to have participated as a SER to CFPB's Small Business Review Panel as it considers the economic impact revisions to HMDA will have on our small community bank. I recognize the various interest CFPB need balance as between consumer protection and those offering financial services and I implore CFPB to do all that it can to ensure small community banks are not disproportionately impacted by forthcoming revised HMDA data collection and reporting requirements.

To minimize cost increases associated with the implementation and ongoing compliance with revised HMDA, CFPB must implement a rule to collect *only* those data points specifically identified as required under the Dodd-Frank Act; and, must adjust the compliance burden to be proportionate to the size and complexity of any given HMDA-reporting entity.

Please feel free to contact me regarding my comments or for further data.

Sincerely,

Jeffrey A. Schmid, CRCM, CRP
Senior Vice President/COO

March 21, 2014

Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Sir or Madam:

I would like to thank you for the opportunity to serve as a small entity representative for the HMDA rulemaking SBREFA Panel on behalf of AmeriFirst Home Mortgage. The responsibilities associated with this honor are not taken lightly, and I appreciate your willingness to gain mortgage industry perspective on the proposed rulemaking changes.

Enclosed for your review, please find information regarding the economic impact of rule making changes on AmeriFirst. Specifically, AmeriFirst would like to emphasize some of the data point proposals that would adversely impact the way we do business. If you have any questions regarding this information, please contact me at (269) 324-4240, ext. 10163. I greatly appreciate your time and consideration of the enclosed information.

Most kindly,

Sheila M. Strong

Sheila M. Strong
Vice President of Compliance
General Counsel

Enclosure

Small Business Regulatory Enforcement Fairness Act

HMDA Small Entity Representative Comments

Sheila M. Strong
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SBREFA HMDA Panel Comments

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Summary of AmeriFirst Home Mortgage

AmeriFirst Home Mortgage is a mortgage banker based in Portage, Michigan. As an entity licensed in 13 states, our monthly loan closing volume is approximately $45,000,000 per month. AmeriFirst Home Mortgage originates, funds, and services 1st lien mortgage loans for 1-4 unit residential housing. We work with FNMA, GNMA, FHA, VA, and USDA RD and are routinely examined by each of these entities in addition to examination by warehouse lenders and third party auditors. We offer diverse mortgage financing options including fixed rate, adjustable rate, conventional, HomePath, HomePath Renovation, HomeStyle Renovation, FHA, FHA 203(k), VA, and RD. As a small business, we must comply with HMDA reporting standards in additional to NMLS call reports, state specific reporting, and agency reporting.

Currently, we extract HMDA data from our loan origination system (LOS) and transfer the data to our HMDA Management System (HMS). With ever-changing regulatory requirements based on agency, state, and federal laws, we are also in the process of updating and transferring to a new LOS that can achieve more automated compliance solutions. Upgrades in software solutions to ensure compliance is common within this industry, which adds time and cost to our HMDA reporting process by having to complete a data reconciliation and error resolution procedure for 2 systems that are ultimately merged into the HMS. During 2013, AmeriFirst reported over 6,600 loan data files to HMDA.

Comment on Data Points

The HMDA rulemaking currently requires creditors to report basic information about the loan application, borrower, and location of the property. The CFPB is proposing additional data points that may pose as unduly burdensome not only to small mortgage bankers, but also to borrowers since the cost associated with these changes are ultimately absorbed by the consumer. An in depth analysis of the proposed data points must be addressed individually to understand the economic impact of such modifications.

Total Points and Fees

Points and fees are defined differently from rule to rule. Agencies, local jurisdictions, states, and federal laws often conflict regarding what is and is not included in points and fees. Here are just a few items to consider when determining whether a charge constitutes a "point and fee" in accordance with HMDA:

- Are finance charges included as a point and fee?
- Are non-finances charges included as a point and fee?
- Are third party charges included as a point and fee?
- Are lender paid charges included as a point and fee?
- Are seller paid charges included as a point and fee?
  - What if the seller specifically outlines the fees for which they will pay?
  - What if the seller offers closing costs to up to a certain dollar figure without specifying how the funds will be applied?
- Are bona fide discounts excluded?
  - If yes, how is "bona fide" defined?
  - If yes, is there a limit to the amount of bona fide discount that is excludable?

- To what extend are affiliated business fees excluded?
- Will points and fees mirror that of the QM definition of points and fees? (Which, anecdotally, are interpreted much differently by vendors, lenders, and regulators.)
- Will points and fees mirror points and fees as defined by the high cost test and higher priced mortgage tests?

As a mortgage banker, it is extremely difficult to distinguish which points and fees are included in each test. Not only do federal rules conflict with one another regarding what a point and fee for their respective rule, state laws also proscribe individualized definitions. In addition to that, there are different interpretations of each rule by agencies, investors, and regulators. While state "A" and state "B" may be subject to the same federal rules, their regulators interpret the rules differently and cause lenders to impose further exceptions and internal policies and procedures that involve extremely manual analysis. A lack of consistency between the rules and interpretation of the rules makes compliance a tremendously costly and labor intensive feat. A policy and procedure that is deemed by a regulator to be compliant with federal law in state A, may be deemed as a violation in State B. State B may also impose a fine for non-compliance and require a policy and procedure revision that would take an otherwise automated process and make it manual, based on application to that state's interpretation of the rule. After the state deems whether the lender has complied with the rule in question, investors, agencies, and software companies may disagree with the interpretation- again causing further manual analysis of rule implementation. Even more troubling, a federal regulator may disagree with the interpretation of the state, agency, investor, or vendor causing an inability to comply with competing of interpretations. This becomes a costly endeavor in terms of labor, software customization, state regulatory fines, and legal costs.

There is an inverse correlation between the specificity of the rule and the cost of its implementation; the less specific the rule is, the more costly implementation would be for mortgage bankers. When rules are vague, outside counsel is needed for interpretation. Varying interpretations also cause vendors to offer configuration options for lenders to choose how they wish to apply the rules instead of consistent programming. Configuration and customization equates to large costs. Such variation also causes inconsistency in data comparisons and compromises data integrity. This also leaves the door open to agency, state, and federal interpretations that vary. These varying interpretations may result in potential fines for non-compliance and exorbitant legal fees.

Another concern regarding points and fees is the lack of direction regarding how to apply the voluminous rules to the federal forms in which we are required to complete. Although lenders are federally required to provide GFE & TIL disclosures to borrowers, the points and fee definitions are not tied to the form that outline borrower charges, which makes compliance difficult to determine. While software may capture the "Adjusted Origination Charges" in block A of the GFE, the rules may require lenders to include fees B, C, and D listed in Block A while omitting X, Y, and Z of Block A. The problem with this is that the software does not allow lenders to itemize the individualized block A fees based on whether the fee is included in the points and fees test associated with HMDA, HOEPA, HPML, QM, or the relevant state anti-predatory lending law. Another layer occurs when the fee is ultimately paid by the borrower, seller, or lender, which can further redefine whether the charge is a "point and fee" for the purposes of HMDA. Everything is so nuanced that it becomes manual and costly. The lack of consistency between rule definitions makes compliance an extremely costly process for which the borrower ultimately pays.

Training our staff of over 300 employees on the different between a point and fee for HMDA versus HOEPA, HPML, QM, or a state anti-predatory lending test is extremely costly in terms of time, labor, money, and the lack of automation in including/excluding charges based on the test being evaluated. AmeriFirst strongly encourages the CFPB to define points and fees for the purposes of residential mortgage lending as the dollar figure listed in block A of the GFE, less any seller concessions. Such a simple definition can be easily captured within the system and exported to our HMS with no vendor programming, no legal fees for rule interpretation, and very little additional labor expense. Because these federal disclosures are in the process of being reconfigured into an integrated form, the HMDA definition of points and fees should contemplate the subsequent revision to these forms and provide for an equally similar definition when the new forms are implemented. I would also encourage the CFPB to consider a similar definition of points and fees other rules (such as QM) since standardization is key to making compliance economically feasible for small lenders.

If the definition of points and fees is tied to an exportable field from the GFE lenders are required to prepare for residential mortgage loans, the estimated cost of implementation for AmeriFirst would be minimal. If the fees are not tied to a specific reportable block on the GFE, causing the process to be manual, the estimated cost of implementation would be as follows:

One-Time Costs		
Item:	***Computation:***	***Total estimated cost:***
Legal fees for rule interpretation	$350/hour x 6 hours	$2,100
Training for 310 employees regarding fees included/excluded from HMDA.	310 employees x 1 hour = 310 hours 310 hours x $28/hr (blended salary)	$8,680
Policy & procedure revision, preparation, & review by senior management.	5 senior staff X 5 hours = 25 hours 25 hours x $100/hour	$2,500
Ongoing Costs		
Item:	***Computation:***	***Annual Cost:***
100% file review to determine which fees are included in the HMDA points and fees test and manual exclusions for fees that may be omitted by virtue of being paid by the lender or seller.	7,200 HMDA files (projected for 2014) x .4 hours = 2,880 2,880 hours x $20/hours	$57,600
Evaluation of point and fees calculations by examiners. (The states in which we are licensed charge by the hour to conduct files reviews.)	7,200 files x 10% selection = 720 files 720 files x .25 hr/file = 180 hours 180 hours x $100/hour	$18,000

Universal ID

Each lender has their own method in programming and assigning borrower loan numbers. A universal identification for loan numbers would be extremely laborious for mortgage bankers to tie each unique universal identification number to a borrower's application. The are many concerns associated with this proposal.

The first issue is the definition of an application that would trigger the need for a universal ID. Applications can be defined as a pre-qualifications, pre-approvals, Reg B applications, Reg X applications, 1003 applications, complete applications with supporting docs for underwriting submissions, incomplete applications, etc. Additionally, while a pre-qualification is not HMDA reportable application, a pre-qualification may trigger an adverse action notice in accordance with Reg B. Requiring a universal identification number for all applications would require a detailed analysis of the type of loan applications that warrant such an identification and a determination of the triggering factor to assign the number during the application process.

Secondly, many LOS systems have bar coding to ensure that when a borrower returns application documents, the documentation is automatically scanned and saved into the borrower's file. The CFPB has indicated that the universal loan identification number may come in the form of a bar code. AmeriFirst has expended over $400,000 converting to a LOS that offers such a bar coding system to accurately track documents and improve quality control systems; a competing bar code would interfere with the LOS tracking mechanism, inhibiting our ability to utilize the functionality of automated document tracking.

Additionally, due to the volume of loan application taken by AmeriFirst, obtaining, assigning, and tracking bar codes would require the addition of an additional employee. If there is a time delay in lenders obtaining bar codes, there would also be the cost of labor to inform borrowers on the status of their bar code to continue with their loan application. In the event that loans are delayed from closing due to an unassigned government issued bar code, complaint resolution and manager escalation would increase the labor costs associated with processing loan applications.

Finally, there would be an undetermined cost associated with the acquisition of bar codes. It is unclear whether these bar codes would be purchased by lenders or require additional reporting requirements on the status of the loan identification numbers. This unknown information is not quantifiable at this time, but may be extremely cost prohibitive.

Ongoing Costs		
Item:	***Computation:***	***Annual Cost:***
Obtaining, assigning, and tracking universal loan identification numbers.	7,200 HMDA applications (projected for 2014) + 6,000 pre-qualifications = 13,200 files 13,200 files x .2 hrs/file for bar code assignment = 2,640 hours x $15/hour	$39,600
Error resolution	7,200 files with a 2% error rate = 144 144 files x .2hrs/file resolution investigation = 28.8 28.8 hour x $15/hour	$432
Complaint resolution	13,200 files x .5% complaint rate = 66 complaints 66 complaints x .5 hours = 33 hours 33 hours x $30/hour	$990

Parcel ID

The parcel ID is an item that is only collected on closed loans. If a loan application is denied, lenders do not have the capability to easily provide a parcel identification for the properties. If, for example, a borrower contacts a loan officer to refinance their home and provides all their information to complete their application, the LO will proceed with a credit inquiry. If the credit inquiry results in a 580 credit score with a borrower who has no established repayment ability on any debt they have, they will likely be denied for their loan application without ever obtaining the parcel identification number. Having to collect such information poses a tremendous economic burden on lenders.

When a loan does close, a parcel identification is included as part of the loan documentation; however, it is not an exportable field. A parcel identification number is included in .pdf format that cannot be captured in a specific field. Any property parcel identification that is obtained would have to be manually transcribed without the ability to export in an automated manner. Furthermore, manual entry of parcel identifications leads to human error and data integrity issues. A lesser means to achieve the same purpose is to maintain the county in which the property is located. Obtaining a parcel identification would result in costs as outlined below.

Ongoing Costs		
Item:	***Computation:***	***Annual Cost:***
Manually looking up and transcribing parcel identification numbers.	7,200 HMDA applications (projected for 2014) 7,200 files x .2 hrs = 1,440 hours 1,440 hours x $15/hour	$21,600

Age

While current systems obtain the date of birth of each borrower, vendors do not have a mechanism in place to capture the age in exportable format. Furthermore, if age becomes a required reportable data point, at which point would the age of the applicant be captured? The time of closing? What if the loan does not close? At the time the borrower contacted the lender? At the time a Reg B application was received? At the time the lender obtained a RESPA application? At the time the 1003 application was completed? At the time the borrower signed their application documentation? Reporting age would entail manual calculation of the borrower's age at the defined moment in time. While date of birth is captured in the system, storing such information poses security concerns with the storage of sensitive information. A less burdensome option would be to report the borrower's year of birth. Such information would be readily available and pose very little cost to mortgage bankers such as AmeriFirst. Reporting age would be a manual process as follows:

Ongoing Costs		
Item:	***Computation:***	***Annual Cost:***
Manually reviewing the age of the applicant at the defined moment in times and entering into the LAR.	7,200 HMDA applications (projected for 2014) 7,200 files x .1 hrs = 720 hours 720 hours x $15/hour	$10,800

Credit Score

While AmeriFirst Home Mortgage utilizes credit score to obtain information relative to whether the borrower will be approved, there are many concerns associated with credit score. For example, if the loan officer only obtains one credit score for pre-qualification, is that the score that is reported? If the

LO obtains a tri-merge report, which score would be reported? All 3? The mid-score used to calculate the borrower's eligibility? What if there are multiple borrowers on the same application? What if the credit report is obtained more than once? Obtaining this information can be quite challenging when determining the rules that guide which score should be reported. If vendors are unable to accommodate programming to accurately populate the score that is utilized in the credit decision, this could become an extremely manual process. A cost analysis of a manual entry for this field can be found below.

Ongoing Costs		
Item:	***Computation:***	***Annual Cost:***
Manual entry of credit scores for each HMDA application.	7,200 HMDA applications (projected for 2014) X .1 hours per file = 720 hours 720 hours x $15/hour	$10,800

Privacy

Gramm-Leach Bliley requires lenders to ensure that information is kept private and secure. Storing large files that tie the borrower's age, parcel identification, and credit score poses an extreme security risk. While lenders do everything within their power to prevent a data breach, even large retailers, such as Target, become victims of computer hacking. With lenders of all sizes throughout the United States storing such sensitive information, security becomes a huge risk in terms of data security. Even if the transmission system is secure to the CFPB, lenders required to store such sensitive information can become a tremendous security risk. Requiring the storage of such sensitive loan data in a loan by loan format exposes lenders to not only a security risk, but also tremendous litigation exposure in the event of a data breach. Reporting and storing information in the aggregate is a much safer way to store data as opposed to loan by loan details. The CFPB is encouraged to collect the data they are required to obtain in the aggregate to the fullest extent possible as opposed to loan level data. Since the safety of borrower information is of the utmost importance, it is the borrower's best interest to have their data stored and saved in a manner that cannot be individually tied to them personally. The cost of litigation associated with a data breach is insurmountable.

Duplication in Reporting Standards

It is important to note that the federal SAFE Act requires reporting of very specific loan data at the state level. This task is accomplished through NMLS mortgage call reports and supplemented by additional state overlays that require further reporting. To the extent practicable, it is recommended that the HMDA data standards and SAFE Act reporting requirements consolidate their federal reporting requirements into a unified reporting mechanism that achieves the same outcomes with a lesser burden on mortgage bankers that will ultimately reduce the cost of credit to our borrowers. The SAFE Act and HMDA have similar reporting requirements and any consolidation that could occur would be a tremendous costs savings to mortgage bankers.

Quality Control

When QM/ATR rules were released in January, our QC vendor imposed a 10% increase in our file review costs due to the increased requirements for file examination. With the proposed HMDA rule changes, we anticipate an increased expenditure in our quality control analysis to determine whether data was accurately obtained and reported. An estimated 3% increase in quality control expenses can be anticipated based on the proposed HMDA data point additions. This results in an approximate economic impact as indicated below.

Quality Control		
Item:	***Computation:***	***Total estimated cost:***
10% of closed loans	6,000 closed loans per year x 10% = 600 loans 60 loans x $175/loan (current rate) = $105,000 $105,000 x 3% increase	$3,150
10% of denied loans	1,000 denied loans per year x 10% = 100 loans 100 loans x $100/loan (current rate) = $10,000 $10,000 x 3% increase	$300

Fair Lending Analysis

With additional data points, AmeriFirst will be responsible for conducting Fair Lending Analysis and testing of its systems. After investing approximately $50,000 into state-of-the-art software that would conduct match-pair and regression analysis, it was determined that as a small business, the volume of comparisons to do the regression analysis are not present to provide accurate reports. While AmeriFirst offers non-discriminatory pricing based on facially neutral standards, further fair lending analysis needs to be conducted to determine the extent to which disparate impact may be resulting, if any. With additional data points being reported, it will be more costly than ever to have a complete analysis of the products and services offered to our borrowers. It is estimated that an additional $30,000 per year will be needed to complete the fair lending analysis to establish that any disparate impact that may result in our lending patterns would be a result of equally applied standards that could not be achieved by any lesser means, not as a result of discriminatory lending.

Summary

AmeriFirst Home Mortgage appreciates the opportunity to be heard regarding the economic impact of imposing additional data points. To mitigate the cost, AmeriFirst recommends that HMDA data be collected in the aggregate as opposed to loan level data to the fullest extent possible to protect the safety and security of the borrowers we serve. AmeriFirst Home Mortgage is committed to doing business the right way and desires to work with the CFPB to establish sound lending practices, accurate data collection, and ethical business practices that meet the needs of the communities we serve. While it is essential to provide sound data, it is also important to balance the cost associated with the data collection standards so as not to overly burden our borrowers with excessive compliance costs.

TO: SBREFA PANEL

FROM: Melinda White, Bank of Zachary

RE: Request for participant feedback of the SBREFA PANEL for HMDA; meeting in Washington D.C. on March 6, 2014 and various conference calls

DATE: March 18, 2014

Dear CFPB HMDA team and SBREFA Panel Review

I was pleased to participate in the small entity panel review process during February and March of this year and wish to respond to the requests made in the March 6th meeting for feedback.

My guest, Susan Costonis, C.R.C.M., has been a compliance consultant for our bank since 2004. She was also present at the meeting and listened to most of the conference calls. While an outside party may not participate directly in the review process, our bank values her 36 years of banking experience. Mrs. Costonis has provided HMDA training for banks and credit unions on a national basis and also conducts HMDA audits and Fair Lending analysis for financial institutions.

First, I'd like to address some of the questions about the cost of collecting HMDA data at our bank. We use the DES system for manual entry. We don't plan to purchase any mortgage software or use an outside vendor for HMDA submissions. Please see below:

Conservative cost of HMDA per loan based on 2013 and prior reporting years

Data collection by loan officer ¼ hour @ $50.00 / hr	$ 12.50
Loan Department LAR entry and validation ¼ hour @$25.00/hr	$ 6.25
Second review in loan department ¼ hour @ $25.00 / hr	$ 6.25
Manual entry to DES and review ¼ hour @ $25.00 / hr	$ 6.25
Quarterly audit by internal auditor ¼ hour @ $50.00 hr	$ 12.50
Total per LAR entry	$ 43.75
2011 $43.75 X 143 LAR entries	$6,256.25
2012 $43.75 X 139 LAR entries	$6,081.25
2013 $43.75 X 140 LAR entries	$6,125.00

<u>ISSUES AND CONCERNS</u>:

Before submission each year we go through all declined applications and withdrawn applications for the year to be sure that we have included all necessary loans on the LAR. The Panel identified 18 operational steps and the first step is "transcribe the data". This may be an over-simplification of the process. We spend a ***significant amount of time to determine if an application is reportable.***

QUESTION: Has the CFPB done an analysis of the questions and email requests submitted to the HMDA Helpline? If you did this I believe you would find a high percent of the inquiries deal with whether or not a request is reportable or not. When our consultant conducts in-person or webinar training she receives a large number of questions on this topic; we also discuss this problem in our LBA (Louisiana Bankers Association) Compliance Peer group meeting.

CONCERN

Based on the comments made by participants at the meeting, it seems that a large concern for the banks, PARTICULARLY the banks supervised by the **FDIC** is the potential for civil money penalties for inaccurate reporting. If you review the enforcement actions for HMDA reporting errors for the past two years, there is a dramatic discrepancy in the amount of FDIC fines versus other regulators. One of the participants suggested that some of the new data fields be based on a RANGE which might mitigate some of these accuracy and enforcement issues. For example rather than an exact income, subject to rounding, use a RANGE of income numbers. I haven't seen ANY fines that the NCUA, OCC or Federal Reserve assessed in 2012, only the FDIC made enforcement actions. **IS THIS EQUAL TREATMENT**? Here's a listing of the civil money penalties:

<u>GRAND TOTALS</u>

2012	**$446,700 for 49 banks ranging from $1,500 to $60,000**
2013	**$486,000 for 3 banks and one servicer ranging from $7,000 to $425,000**

2013

- <u>Bank of Dade, Trenton, Georgia</u> , 10/29/13, $20,000 (FDIC)
- <u>Mortgage Master, Inc., Woburn, Massachusetts</u> , 10/9/13, $425,000 (CFPB)

- Washington Federal, NA, Seattle, Washington, 10/9/13, $34,000 (CFPB)
- Peoples Exchange Bank, Stanton, Kentucky, 02/08/13, $7,000 (FDIC)
- German American Bancorp, Jasper, Indiana, 12/18/12, $15,000 (FDIC)
- Casey State Bank, Casey, Illinois, 12/18/12, $12,500 (FDIC)
- The Citizens State Bank of Cheny, Kansas, Cheny, Kansas, 11/28/12, $6,000 (FDIC)
- Delaware County Bank & Trust Company, Lewis Center, Ohio, 11/9/12, $11,000 (FDIC)
- Signature Bank, Bad Axe, Michigan, 09/24/12, $4,000 (FDIC)
- AztecAmerica Bank, Berwyn, Illinois, 09/11/12, $2,500 (FDIC)
- AbbyBank, Abbotsford, Wisconsin, 08/22/12, $12,500 (FDIC)
- Bank of Sun Prairie, Sun Prairie, Wisconsin, 08/16/12, $11,000 (FDIC)
- Union State Bank, Kewaunee, Wisconsin, 08/08/12, $9,000 (FDIC)
- Federated Bank, Onarga, Illinois, 08/03/12, $4,250 (FDIC)
- Bank of Montgomery, Montgomery, Louisiana, 07/18/12, $7,500 (FDIC)
- Main Street Bank Corp., Wheeling, West Virginia, 07/02/12, $4,000 (FDIC)
- First Western Trust Bank, Denver, Colorado, 06/22/12, $9,500 (FDIC)
- Wisconsin Community Bank, Madison, Wisconsin, 06/19/12, $15,000 (FDIC)
- First Federal Savings Bank of Elizabethtown, Elizabethtown, Kentucky, 05/30/12, $16,500 (FDIC)
- CSB State Bank, Cynthiana, Indiana, 05/30/12, $1,500 (FDIC)
- Gerber State Bank, Argenta, Illinois, 05/30/12, $8,000 (FDIC)
- First Nations Bank, Chicago, Illinois , 05/07/12, $4,950 (FDIC)
- High Point Bank and Trust Company, High Point, North Carolina, 04/27/12, $8,000 (FDIC)
- The Park Bank, Madison, Wisconsin , 04/27/12, $41,000 (FDIC)
- TriStar Bank, Dickson, Tennessee, 04/26/12, $10,000 (FDIC)
- The Greenwood's State Bank, Lake Mills, Wisconsin, 04/19/12, $4,500 (FDIC)
- Brimfield Bank, Brimfield, Illinois, 04/18/12, $4,000 (FDIC)

- Community State Bank, St. Charles, Michigan, 04/18/12, $11,000 (FDIC)
- Hawthorn Bank, Jefferson City, Missouri, 04/13/12, $60,000 (FDIC)
- West Town Savings Bank, Cicero, Illinois, 04/05/12, $27,500 (FDIC)
- Freeland State Bank, Freeland, Michigan , 03/22/12, $3,500 (FDIC)
- Bank of Ann Arbor, Ann Arbor, Michigan , 03/22/12, $30,000 (FDIC)
- Provincial Bank, Lakeville, Minnesota , 03/20/12, $4,000 (FDIC)
- University Bank, Ann Arbor, Michigan , 03/07/12, $10,000 (FDIC)
- Western State Bank, Devils Lake, North Dakota, 03/05/12, $7,000 (FDIC)
- Commerce Bank, Geneva, Minnesota, 03/05/12, $4,000 (FDIC)
- EvaBank Eva Alabama , 03/21/12, $8,000 (FDIC)
- Peoples Independent Bank, Boaz, Alabama, 03/14/12, $8,000 (FDIC)
- Wolf River Community Bank, Hortonville, WI, 01/11/12, $5,500 (FDIC)
- Tri-County Trust Company, Glasgow, MO, 01/14/12, $1,500 (FDIC)
- OneUnited Bank, Boston, MA, 01/15/12, $4,000 (FDIC)
- Bank of Louisiana, New Orleans, LA, 01/13/12, $10,000 (FDIC)
- Grabill Bank, Grabill, IN, 01/26/12, $13,500 (FDIC)
- Flanagan State Bank, Flanagan, IL, 01/16/12, $17,000(FDIC)

Our bank attempts to review every LAR entry for accuracy, yet the FDIC found some issues with the method of rate spread calculation and we spent significant time to correct this for the 2012 filing. ***As a defensive measure we decided to also scrub the 2013 data: here's the cost estimate:***

HMDA scrub; cost to re-file the 2012 submission; 40 hours X $100 = **$4,000.00**

CONCERN

Changes in DES to network would be helpful, but only if we can control when the information is submitted or viewable. Our bank does not plan to use any type of mortgage origination software. If the changes are geared to this type of end-user our bank will **be at a disadvantage to comply with the changed data entry.**

CONCERN

The proposed rules include a provision to add SIGNFICANT amounts of data, such as age and credit score. Privacy issues are a large concern with all of the new requested information. As the participants shared with during the meeting, the Public LAR is never requested by anyone other than a regulator.

CONCERN

We have a concern about the proposed coverage options. In addition to doubling the amount of work for entry and review it doesn't seem that some of the proposed coverage makes sense. If the goal is to get a better view of potential discrimination and trends in the home mortgage market, why would we include business-purpose loans for reporting? There is another issue with regulatory enforcement. There has been differences in opinion by FDIC regulators about whether or not non-owner occupied rental property is exempt from Reg Z and therefore is exempt from rate spread reporting. The existing rules have exceptions that don't make sense. Why is an agriculture loan exempt for home purchase but not exempt for improvement or refinance? Another helpful exemption would be to exclude employee loans; the income as NA is always a quality edit error. Also the business purpose loans are always a quality edit error because several data fields are NA.

ADDITIONAL INFORMATION:

Our compliance peer group conducted a survey about the HMDA reporting process. The Louisiana Bankers Association sent the survey and 48 banks responded. We would like to share this information as it should help to provide a more complete idea of the analysis of costs and other concerns. **This is the link to the survey:**

https://www.surveymonkey.com/sr.aspx?sm=0ltSpGN5SUAjZfACOwbH3FYkZ9J8XysxULTz8NN7sho_3d

CONCERN

Our bank currently has 50 employees. We are challenged to keep pace with the massive number of compliance changes that were implemented in January of this year and anticipate continued changes. The compliance burden costs are increasing to such an extent that it makes it ***very difficult for a small community bank to serve the very applicants that the rules are intended to protect***. We hope that the CFPB will consider some reasonable exemptions for small institutions and not just the number of LAR entries.

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Citywide Home Loans
Teresa Whitehead, Chief Executive Officer
4001 South 700 East, Suite 250
Salt Lake City, Utah 84107

Origination Volume

Year	Units	$ Volume
2011	2379	545,223,900
2012	5816	1,246,166,313
2013	7032	1,527,623,628

HMDA Loans Reported

Year	Loan Reported
2011	3541
2012	6806
2013	8329

First of all, I would like to thank the CFPB for the opportunity you have given Citywide Home Loans to provide additional input regarding vital HMDA procedures. While we understand that Dodd Frank does indeed require some changes be made to HDMA, we have identified areas regarding privacy of our customer's data as well as additional burdens on SER's that we respectfully request be analyzed to determine if these additional fields are truly necessary.

It is our opinion that any additional data should be minimized to avoid costs incurred regarding the collection, protection and reporting such data. Citywide understands the demand for supplemental data to be used by the CFPB for HMDA analysis purposes, however, we feel that additional fields may be excessive. While the CFPB is reviewing the necessity of supplementary data, we would like to highlight issues regarding costs and data integrity that may compromise the reliability of the reporting financial institutions.

In response to specific costs that would be incurred by Citywide with the increased data collection, please see the attached spreadsheet detailing our current HMDA related costs and a conservative estimate of what we believe the increased costs would be. Please note: this is on the very low end of what we could expect. We have used the same error rate as we experience with our current HMDA data collection. It seems reasonable that we have higher error rates for fields we don't have experience with. Additionally, our IT department has not yet determined what the increased security costs would be to protect the data if we need to transmit on a loan level basis. We expect that number to be substantial. We feel the final number may ultimately be a 50-60% increase in our overall HMDA costs.

Currently, loan level data that is transmitted would be difficult for potential hackers to decipher. While much of the data proposed is currently being collected, there is no single location, other than our in-house servers, that contain a complete blueprint of each and every borrower. Per current HMDA requirements, this data would need to be collected by the financial institution, submitted to a third party provider, and then stored quarterly. Interception of this massive amount of data, containing a majority of our clients' non-public information, would be catastrophic. This, combined with the universal timing of data transfers, would make the finance market an appealing target.

In the event of a data breach, the borrowers have provided the lenders with this information with the impression the data is secure in their hands. While the burden of liability would fall to the courts, the court of public opinion would dictate that the blame should be placed on the lenders themselves.

Larger entities would be subject to higher security costs for storage and transmission. Meanwhile, smaller entities would not be favored due to their lack of funds to invest in high-cost security measures. The cost burden we have calculated by simply adding the additional 18 fields is 32.48% and does NOT reflect the additional security. We would suggest adding Data Security as 19th step.

As the caretaker of borrower information, we would be required to upgrade security to safely guard sensitive information. The costs incurred by lenders for collection, central storage, and secure transmission of private information will ultimately be paid for by the borrower.

Requests for access to the public LAR are non-existent. The effort of redacting and creating the report is purely done for compliance only.

Today's consumers are more aware of the importance of security and have become more wary of the data collected by the government. The public's opinion should be considered.

We respectfully request consideration of a lender's ability to collect, store and transmit the information needed for CFPB to maintain compliance of HMDA but also insure our customer's that their personal and private loan level information is safe. Transmission of aggregated data would solve the issues of privacy as well as security. The building of these types of reports would cost less and be useless to hackers. The data could then be examined for accuracy in future audits by use loan level report of any particular selection requested by the examiner. This would also make it less burdensome if additional data is requested in the future by the CFPB.

Citywide is currently MISMO compliant and would be unaffected.

While the new required fields are collected and/or calculated by Citywide, please find below our concerns for specific fields below:

Prepayment penalty term:	ATR-QM have virtually eliminated prepayment penalties.
Property Value:	The value of the property can be used in a calculation to determine the LTV which in turn sheds light on the borrower's personal finances. Making this similar to "value between \$100,000 - \$200,000" would decrease this ability.
Parcel ID:	This would allow anyone to immediately identify the borrower tied to any record. Currently the Census tract, MSA, State and County cause privacy issues, but are more difficult to tie data to a specific location.
Age:	Citywide believes that any additional personal information should be provided in aggregate, i.e. Ages 18-29 etc. This would also need to be clarified as "age at application" or it becomes a moving target.
Credit Score:	Citywide belies that the disclosure of credit score should be in aggregate to insure the borrower's personal financial status is not disclosed, i.e. Score: 620-630 etc. Also, clarification of which score of which borrower is to be reported is required. Not all lenders use all three bureaus and approvals are not determined by the same bureau nor the same

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borrower. Errors on reporting on the determining scores which could cause non-compliance could be excessive.

While we understand that the CFPB is requesting comprehensive data, however we feel that current requirements are sufficient to identify any violations of HMDA. We would respectfully request the CFPB postpone the addition of these fields as they would surly cause even higher costs that those reflected in our current estimates. Please find below Citywide's concerns for the proposed additional fields:

AUS results:	Must define which AUS results are to be reported. Would this be limited to LP/DU or include other program results.
QM Status:	Must provide clear definition as to which of the several types of QM are possible as well as to avoid additional quality control risks to due inaccurate or incorrect reporting.
Combined LTV:	This calculation can be manipulated to uncover borrower's financial condition. If reported, should be done in aggregate, i.e. CLTV 80-85%
Total Origination charges:	Clarification of definition. These should be linked to the amounts should be those reported on FHA or VA forms as wells as RESPA-TILA documents provided.
Total discount points:	Clarification of which or whose definition will be used.
Borrowers risk adjust. Pre-discounted rate:	This could be used in calculated the borrower's financial condition. Should be reported as aggregate to avoid manipulation of information.
Debt to income ratio:	This can be used to calculate income information as well as detailed financial condition. Should be reported as aggregates and information used should be clearly defined as that used by AUS or by the Lender.

If the inclusion of HELOC's and reverse mortgages is mandated, the system will need to be modified to allow for the exclusion of unnecessary data as to avoid the excessive errors that will occur. The inclusion of filters which will be tied to loan product would be vital to avoid excessive error.

Thank you again for allowing Citywide Home Loans to participate in this process. We truly appreciate your interest in our opinions. HMDA is an important tool used to ensure each loan applicant is afforded equal opportunity, and we stand firmly in our belief that Citywide Home Loans provides such opportunities. If you should have any questions or require any additional information, please contact me directly at 801-747-1211 or via email at teresa.whitehead@chl.cc.

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Citywide Home Loans											
Compliance Tasks and Baseline Compliance Costs											
Current HMDA Data vs. Additional Data											
8329	**Files reported**										
199896	**Fields reported**										
308173	**Fields reported with Additional requirements**										
0.69%	**Error %**										
1371	**Current number of field errors (658 Geo Coding Errors - 721 Other errors)**										
2114	**Number of errors with additional requirements**										
Primary	**Component Task**	**Hourly Wage**	**Current Total Hours**	**Total Hours with Additional Data**	**Current Cost per file**	**Cost with Additional data per file**	**Annual Cost**	**Annual Cost with Additional Data**	**Fixed or Variable**	**Difference**	
Data Collection	Transcribing date	$ 14.00	14.00	21.56	$ 0.02	$ 0.04	$ 196.00	$ 301.84	Variable	$ 105.84	.025 minutes per file reported
	Resolving reportablity questions	$ 23.72	832.00	1281.28	$ 2.37	$ 3.65	$ 19,735.04	$ 30,391.96	Variable	$ 10,656.92	1.0 hrs per 10% of files reported
	Transfer data to HMS	$ 23.72	2.00	3.08	$ 0.01	$ 0.01	$ 47.44	$ 73.06	Variable	$ 25.62	0.014 minute per file reported
							$ 19,978.48	**$ 30,766.86**			
Reporting and Resubmission	Complete geocoding data	$ 23.72	624.69	837.08	$ 1.78	$ 2.38	$ 14,817.65	$ 14,817.29	Variable	$ -	4.5 minute per file reported
	Standard annual edit	$ 23.72	192.00	295.68	$ 0.55	$ 0.84	$ 4,554.24	$ 7,013.53	Variable	$ 2,459.29	1.38 minute per file reported
	Researching questions	$ 32.22	16.00	24.64	$ 0.06	$ 0.10	$ 515.52	$ 793.90	Variable	$ 278.38	.11 minute per file reported
	Resolving question response	$ 32.22	160.00	246.40	$ 0.62	$ 0.95	$ 5,155.20	$ 7,939.01	Variable	$ 2,783.81	1.15 minute per file reported
	Checking post-submission edits	$ 48.07	16.00	24.64	$ 0.09	$ 0.14	$ 769.12	$ 1,184.44	Variable	$ 415.32	.11 minute per file reported
	Filing post-submission documents	$ 48.07	4.00	6.16	$ 0.02	$ 0.04	$ 192.28	$ 296.11	Variable	$ 103.83	.03 minute per file reported
	Creating Public LAR	$ 23.72	0.25	0.25	$ 0.00	$ 0.00	$ 5.93	$ 5.93	Fixed	$ -	
	Distributing Public LAR	$ 23.72	0.25	0.25	$ 0.00	$ 0.00	$ 5.93	$ 5.93	Fixed	$ -	
	Distributing disclosure report	$ 23.72	0.00	0.00	$ -	$ -	$ -	$ -	Fixed	$ -	
	FI uses venor HMS Software	$ -	0.00		$ 0.19	$ 0.19	$ 1,561.88	$ 1,561.88	Fixed	$ -	
							$ 27,577.74	**$ 33,618.02**			
Audits	Training - Loan Officer	$ 8.00	428.00	428.00	$ 0.41	$ 0.41	$ 3,424.00	$ 3,424.00	Variable	$ -	214 Loan Officers (2 hrs annual HMDA training) 3.08 mi
	Training - Processors	$ 23.08	198.00	198.00	$ 0.55	$ 0.55	$ 4,569.84	$ 4,569.84	Variable	$ -	99 Processors (2 hrs annual HMDA training) 1.43 minute
	Administrative Hours	$ 48.07	80.00	80.00	$ 0.46	$ 0.46	$ 3,845.60	$ 3,845.60	Variable	$ -	.58 minutes per file reported
	Internal Audit (Can/Den Files)	$ 30.00	400.00	271.59	$ 1.46	$ 0.98	$ 12,131.08	$ 16,255.65	Variable	$ 4,124.57	2.88 minutes per file reported
	External Audit	$ 35.00	205.75	316.86	$ 0.87	$ 1.33	$ 7,279.91	$ 11,089.93	Variable	$ 3,810.01	1.48 minutes per file reported
							$ 31,250.44	**$ 39,185.02**			
Exams	Exam Prep	$ 32.22	80.00	123.20	$ 0.31	$ 0.48	$ 2,577.60	$ 3,969.50	Variable	$ 1,391.90	.58 minutes per file reported
	Exam Assistance	$ 32.22	40.00	61.60	$ 0.15	$ 0.24	$ 1,288.80	$ 1,984.75	Variable	$ 695.95	.29 minutes per file reported
			3292.94				$ 3,866.40	$ 5,954.26			
				COST PER APPLICATION FILE	**$ 9.93**	**$ 12.78**	**$ 82,673.06**	**$ 109,524.16**		$ 26,851.10	
				COST PER CLOSED FILE	**$ 11.85**	**$ 15.70**				**32.48%**	

nutes per file reported
:s per file reported

To the members of the CFPB SBREFA Team on HMDA Rulemaking,

First, please allow me to offer my appreciation for the opportunity to participate in these important discussions. The mere fact that the CFPB has asked for insight from those of us who will be directly affected by the rulemaking is a positive sign to us in the industry, as it shows that the CFPB is attempting to balance as best they can consumer protection with industry practicality. I, for one, appreciate the monumental task that you are undertaking in ensuring the needs and desires of the American consumer and those advocates who work so hard in protecting them are met, and don't envy you in your endeavors. I hope that you understand that most of us in the banking industry, especially those of us in small community banks, take those needs and desires very seriously as well, and we want to ensure that the regulations that will go into effect do not have the unintended consequence of harming those that the regulations are designed to benefit. My summary to these written remarks will double back to this theme, as I believe that it's to this point where the real cost associated with these proposed rules, coupled with the Ability-To-Repay and other recently effective mortgage regulations, will truly be felt.

The bulk of my remarks are designed to provide as much insight as I can to the questions raised during our meeting at the US Treasury Department on March 6. I will follow the outline as presented and will focus my answers on my institution.

DISCUSSION TOPIC 1 – MISMO/ULDD

Prior to receiving the initial packet for this panel, I had not heard of MISMO or ULDD. I discussed both with our Head of Loan Operations and our Secondary Market Lender, whom I felt would be in the best positions to have worked with or at least have heard of them. Unsurprisingly to me, my questioning of them was also the first time that they had heard of these two topics. As a result, it is difficult for me to determine what we would need to do and what costs would be associated to transition to the new data standards. From a technical perspective, my assumption (which again is all I can give) would be that if this transition is dictated, then our vendor will work to ensure that our systems will be revised to handle the requirements associated with this transition, with the cost being absorbed by our routine maintenance fees. There will be costs associated with me as the Director of Compliance learning the definitions of these standards and then providing insight to our affected staff members as to their meaning. There would be costs associated with aligning our current HMDA spreadsheet with these new standards and determining where the new and/or revised data points will need to be entered into the system. But, if these data standards are truly more aligned with our business operations (i.e., thinking of property more in terms of principal residence, secondary residence or investment rather than owner-occupied or non-owner occupied), I do see where there would be less confusion on the part of our lenders and loan administration people who are the ones charged with gathering and entering this information. Further, I can see where these data points, if aligned with the gathering of information from our consumer borrowers, could very well make them more usable for both examiners and consumers/consumer advocates as they try to determine how well the particular financial institution is meeting the credit needs of its communities. So, from my limited understanding of MISMO and ULDD, I can see where the benefits of making these changes could outweigh the associated costs.

DISCUSSION TOPIC 2 – DATA POINTS

As this was the most talked about and perhaps the most controversial of our discussion topics, I will take each of the new data points separately. I will then reiterate two points that were brought up during our meeting on March 6 that I don't believe can be discussed enough. But first, I want to touch on two revised data points that were not listed on the outline, one that was not discussed at the meeting, but one that I addressed on one in our series of telephone calls, and one that was discussed at the Mach 6 meeting.

Rate Spread (for all loans) – As I noted during our telephone conversation, if we will continue to report commercial loans for HMDA, requiring the reporting of rate spreads for commercial loans will prove to be problematic. One of the criteria involving in calculating the rate spread is the APR of the loan. As commercial loans do not have an APR (at least one that is disclosed to the customer and determined within our current system), a substitution for the APR will need to be made. Due to the number of potentially moving data parts within the rate spread calculation that have caused our bank difficulty in the past, I would like to see no changes to the current rate spread calculation. Plus, the inclusion of a rate spread calculation for commercial loans, I believe, would skew the rate spread data collected in assessing our fair lending and other practices. Rate spreads cannot be calculated currently for commercial loans and should not be calculated in the future.

Universal Loan ID – I understand the concept for this data point as there could be a number of loans throughout the country with the same loan identifier, some of which may contain data that could identify a particular customer. However, I am hesitant in the concept of requiring banks to sign up for a service that will produce a universal loan number for each loan. That service, undoubtedly, will come at a cost that will provide very little to no benefit to the bank or the customer, other than the generation of a loan number. Quite frankly, in my opinion, banks are already subject to another required costly service that I have yet to see a benefit to the bank or our customers, that being the highly confusing NMLS registry. Rather than requiring a new system, I would recommend that for the universal loan ID, we simply use the bank's unique NMLS number as the first part of the ID, and then use the loan number as generated from our system as the second part of the ID. Banks could figure out ways to ID applications that don't originate, but the first part of the ID could still be the NMLS number of the Bank.

Loan Term – This is collected and would not cause any additional cost to report (other than the actual entering and verification that the data is correct). I believe this would be the case, based on the next data point, but it should be clarified that on ARM loans, this is the term of the loan and not the term of the initial interest rate (that gets confusing with the rate spread calculation). This data point should not cause an issue for banks.

ARM Introductory Period – I'm not sure if this is currently collected specifically by the system, but this should not be a problem to collect. I see no issues with the collection of this data point.

Non- amortizing Features – Again, I'm not sure if this is specifically collected by the system currently, but I don't see where this would be an issue.

Property Value – This is currently being collected and I don't think that anything would need to be changed from our perspective to report this. However, it should be made clear that the property value should be the property value used in the credit decision from the valuation received (in whatever form that valuation comes in). If the loan is withdrawn or denied prior to making that determination, then it should be made appropriate to report N/A. There will be additional costs involved in determining whether this amount is correct during the review process, so the reviewer's time will be a factor (there will be the need to compare the actual value to the reported value). This may not be apparent, especially if there are multiple valuations in file. I could see where an additional 2 minutes total could be spent on this data point per loan, but I don't find that significant. I do believe that it would be appropriate from an examiner and consumer advocate perspective to collect this information.

Security Type – This is not directly collected as of now, but it could easily be. I do know that there is confusion out there between manufactured and 1-4 family dwellings; this might actually clear this confusion up. However, it is not always clear as to whether we have real property as opposed to personal property in all cases (most cased it will be). This should be something that lenders should be able to clarify with the customer, and should be relatively painless to collect and report. Further, I think it would assist examiners and consumer advocates in their determinations.

Manufactured Property Interest – I do not believe that this is being captured now, and quite frankly, I'm not sure how difficult it would be to determine. I'm also not sure why this would only apply to manufactured housing. I personally don't see the benefit that this provides to examiners or consumer advocates. If it's a simple "Rent or Own" decision, I could see the benefit, but for us, I believe that trying to determine cooperative or leasehold could prove to be difficult.

Total Units – I don't have a strong opinion on this as we very rarely close loans with multiple units. But, the 1- to 4- family distinction that we currently use seems to be an industry standard. As noted in the meeting, I'm not sure if the Bank would necessarily know an exact number of units for larger, multifamily dwelling, so I would recommend that if we need to segregate these unit numbers more than we already are; we have the option of reporting 1 family, 2-4 family, 5-10 family, and 10+family dwellings. For our area, I believe that would suffice in helping examiners and advocates make their determinations. Any additional breakdowns could cause an additional amount of time for the HMDA reviewer in ensuring that these numbers are correct. I don't believe that this additional time and cost (which could be significant in my opinion) is justified by the added benefit to anyone.

Multifamily Affordable Housing – I don't believe that we currently have a way of collecting this information, but if we did, I do see the benefit in this information. I'm not familiar with how this determination is made, but if we there is some type of documentation that we could place in file that would tell us this, then I would like to see this being reported.

Age – Here in lies a supposed simple data point that should be reported and is currently being captured by our lenders, but determining how this will be reported may cause some issues. The simplest thing to do would be to record the birthdate of the borrower, but with other information being reported, this could cause major privacy issues if the data is compromised. If we are reporting ages, or even ranges of ages, what age should we report, the age at application, the age at rate lock, the age at consummation, etc.? For example, when I began the application process for my home, I was 29, but I turned 30 before the loan closed. If we are to report a range of ages, say 20-29, what age would have been reported? This is something that will need to be defined clearly. Because age is not something that is constant for a person, there will be some additional work that will need to be done to ensure that this is reported correctly. I think this should be reported, by how this will be reported should be carefully considered for privacy and practically standpoints.

AUS Results – As we do not currently use an AUS system, I would hope that for us we can simply use N/A as reportable data. I will let others comment on this data point, but I will say that I don't see where this provides appropriate data for examiners and consumer advocates. There are many reasons why a Bank does not follow the results of an AUS system. I don't believe that this truly provides information to determine if we are meeting our community's credit needs.

Loan Originator ID – As long as this is the NMLS ID, I have no issue with reporting this, as it should be. This will prove to be useful as be as bankers try to determine if we are having fair lending issues with a particular lender.

Application Channel – We do not currently collect this and I don't think that we have the capability to do this at this time, however, currently almost all of our applications come internally (retail). There would be some adjustments to systems needed and some training, and I would believe that this will prove to be difficult to review for, thus I think it will take some time and cost from our reviewer to ensure that this information is correct. Because of that additional cost, I don't believe that this is something that should be obtained as I don't see the benefit from knowing where the application comes from as long as we are meeting the needs of our community. For us, I would not think that the application channel would make much difference.

Credit Score – This one concerns me the most, from a lot of standpoints. I will address my privacy concerns at the end of my comments, but there are other concerns about credit score that I have as well. This is something that we could retain currently, so our system would not need to be changed. The issues with choosing which credit score to report based on the number of different scores that may be pulled by individual lenders have been addressed and will need to be worked out by you. This level of complexity will also cause additional training for our lenders and processors, as well as our reviewer, to determine the correct score to report if multiple score are pulled. A concern that I have that was not addressed during the meeting revolves around those of us who do not use the credit score in our decision. We do use credit history but we do not use the credit score in our decisions due to the impact that has on other disclosures. If we truly don't use the credit score in our credit decision, will we be able to report N/A for that field? I understand why the credit score disclosure would help aid in fair lending reviews, but I think there is the possibility of a number of unintended consequences if we do report credit score.

Denial Reasons – While we are not required to, we are reporting denial reasons currently. We have not had issues with this and it doesn't take much additional time in preparation, review, or reporting. I think this is an important factor in determining fair lending.

Total Points and Fees – As noted in the March 6 meeting, the issue with total points and fees is providing a clear, understandable definition of what exactly "Total Points and Fees" encompasses. There is so much confusion in the financial industry in what does or does not constitute points and fees (what should and shouldn't be included in the APR or MAPR, what determines HOEPA and QM, what is a finance charge and a prepaid finance charge), that even the most veteran compliance officer must look up the definition and regulation every time a question on points and fees come up. Banks cannot handle another definition of points and fees. This definition will need to come from another regulation. For us, the best place would be from the QM definition since the terminology is the same. However, what about those institutions that have decided not to worry about the QM definition and only focus on ATR? Would they not now be forced to consider part of the QM definition, even though they made the allowable decision to stay clear of the definition because of its complexity? Regardless of where the definition for this comes from, there will be a significant amount of time dedicated to training on this, developing system changes to handle the reporting, and a great deal of time (I'd say 10 minutes at least for even the most simplest of mortgage loans) to review to ensure that the correct amount is reported. Currently, I review all mortgage loans to determine their QM status before the loan closes. It takes me about 30 minutes to complete my review. While most of my time is spent on DTI calculations, I do spend time determining points and fees. This will pose a significant burden on banks, especially those that do not review for QM status. Further, for commercial loans, this will be even more difficult to determine as there is no disclosure that currently captures this information.

Total origination changes – To me, this is more appropriate as compared to Total Points and Fees, to judge whether we are meeting our community's credit needs. These are charges that we as a bank are charging, those that we can control. The way the GFE and HUD are currently constituted (I have not spend a lot of time on revisions to GFEs and HUDs at this point), this should be fairly easy to determine and should not require a lot of additional training. This to me also more accurately reflects our fair lending practices. Further, it is something that all banks are required to collect on consumer loans. As before, this will be difficult for commercial loans as of now, but it will be less costly to determine and review for our charges than for "Total Points and Fees".

Discount points – We do not do discount points for loans that we originate, so I'm not sure what this might entail. I will let others speak on that issue. I would assume that there will be an option to report N/A

Risk-Adjusted Interest Rate – As noted, we don't do discount points and we do not do risk-adjusted interest rates. I assume there will be an option to report N/A.

Prepayment Penalty Term – This, I don't believe, should pose much of a problem. I don't believe that this information is being captured anywhere, but I don't think it would be an issue for us to capture it. This would only affect us on HELOCs at this time. The only word of caution that I have is that we use the same definition for prepayment penalty here as is defined in the new HOEPA regulations. Again, we need to ensure consistency within the regulations.

Debt-To-Income Ratio – With any calculation, there is going to be an increase in the amount of time needed to make the calculation and review it for accuracy. Debt-to-Income is potentially a complex ratio to calculate, but one that we do currently capture. What needs to be clear is that this is the DTI used in making the credit decision (i.e. the DTI calculated by using verified debt and income). The review time for this calculation will be 15 minutes for the simplest of mortgage loan; this calculation could prove to be very difficult to calculate and review if we report this for complex commercial loans. This will require additional training on this depending on the definition for debt-to-income (again, I would ask that this be piggybacked from the definition used in ATR/QM regulations for consumer loans).

Combined Loan-to-Value Ratio – Again, with any calculation, there will be an increased cost in calculation and review. We do make this calculation, but since there is no other regulation that makes this requirement, the definition will need to be carefully crafted to avoid confusion. There will need to be training conducted on the calculation and I would anticipate another 10 minutes of calculation per loan on the review side to ensure that the reported data is correct, even on a simple mortgage loan. The training cost for this, I anticipate, would be the greatest of any other single additional data point.

Qualified Mortgage Status Flag – This is a data point that we can currently capture and for us, I don't think it will cause many issues. I am concerned for those that do not determine whether their loan is a QM. N/A should be an option.

Reverse Mortgage Flag – I do not anticipate that we would do a reverse mortgage (at least intentionally), so that will be N/A for us.

HELOC Flag – The way our loans are set up on the system, this would not be an issue for us (with a possible system tweak).

Now for my two points. First, in terms of cost, as this was your focus during our discussions. I have conservatively estimated that last year, between data collection, data processing, training, review/internal monitoring and auditing, we spent roughly $12,000 on HMDA compliance for 300 reportable transactions. A bulk of that cost is due to two current data points, income and rate spreads, because of the calculation factor of those two points. For the most part those two data points are straight forward calculations. The proposal introduces no less than seven data points that could require (and for most will require) additional calculations that are more difficult to determine and have more variables than income and rate spread (credit score, total points and fees, total origination charges, discount points, risk-adjusted interest rate, debt-to-income ratio, and loan-to-value ratio). Again, most of our training and monitoring costs are associated with those two current calculations. Introducing these seven additional calculated data points could increase our ongoing cost, especially in the short term, by more than double. I would not be surprised that if all of these data points are included into the regulation, our cost for HMDA compliance will rise to $25,000 for 300 reportable transactions. Again, I truly think that is conservative. As was pointed out in the meeting, taking each data point and looking at it in a vacuum, doesn't tell the whole story. Almost every one of the additional data points is something that we either have or can easily get. It's the compilation of these data points, the cost of getting them right, and the fear and consequences associated with getting them wrong that will cause bankers to think twice about continuing to offer HMDA reportable loans. I'll circle back to this point at the end of my comments.

Secondly, and perhaps more importantly, these additional data points are going to make it easier for people, whether it be consumers and consumer advocates or hackers, to determine the specific borrower based on the information publicly available. I know that you have commented that privacy is a big concern for you. But it only stands to reason that the more information that is made available, the easier it will be to figure out whom the borrower is. I understand that you can make certain data points unavailable to the customer, but then my question to that is; "How does that help the public determine if we are meeting the credit needs of our community?" If the information is not needed to make this determination, then is it really vital that it be collected? Again, I understand your desire for this information, but listening to the conversations on these new data points, I concluded that the real reason for these data points is so that we will have to provide additional information on our lending practices to regulators. Based on the purposes of HMDA, the more data points you remove from public disclosure, the less effective those data points are for the designed purpose of HMDA. The more data points that you make available to the public, the more likely that someone financial privacy will be compromised. I will bring up the privacy issue again when I talk about geocoding, but for all of these new data points, I would request that you ask yourself this question for each of these data points "Does the benefit that the consumer and consumer advocates receive from the data point outweigh the cost associated with the financial institution supplying the data (including the possibility and consequences of getting the data point wrong) coupled with the consequences that will be felt by the consumer if this information should be used to determine the identity of the borrower?"

DISCUSSION TOPIC 3 – MODERNIZATION OF THE HMDA PROCESS

We currently use the FFIEC tool to geocode our properties. As I pointed out on one of our calls, with a number of our loans being secured by property in rural areas, it is difficult in using the FFIEC tool alone in the geocoding process. However, for us, the issue is really more with getting an exact address of our properties than with the current geocoding tool. A good number of our property addresses are something to the effect of "Route 123 North". That is the best address we have for the property; the property is further described in addendums to our deeds of trust. Since we know our properties, we have become rather proficient in using the FFIEC tool to geocode the property with that limited address information. Since we have to enter addresses to use the geocoding system, it certainly would save us time and cost if we only had to report the address, but maybe at most 5 minutes per loan. However, I think that the government will find it difficult to properly geocode our properties based on addresses. For us, I think we are in a better position to do so. The issue with the geocoding system is not so much with the tool, but with the lack of exact address in a lot of our rural markets. There has been talk about reporting only the address, or maybe latitude and longitude coordinates, which I would not be in favor of. Not only do I think that in the long run, this will take more time (at least in manually entering the information into the DES system), but the more specific this information is, the more likely that individuals will be able to determine the borrower based on available information. With that comes an increase in the likelihood that a customer's financial privacy will be compromised. Coming from a rural part of the country where it would not be that difficult to make this determination based on information that is already collected and made available, the privacy issues that changes to HMDA raise are of great concern to me.

We do use the DES software on the FFIEC website and as has been raised before, having a web-based version of the software where it could be shared amongst different users and computers would be a great benefit to me as a compliance officer. I don't think that there would be a true time or cost saving, but it would be of a comfort that our information is stored somewhere besides one computer. It would make it easier to train on data entering and submission if the software could be accessed on multiple computers. Should something happen to the computer that the data is stored, the information would be available at another location.

I would like to see some of the validity errors be removed or at least not repeated over and over again (i.e. we do not disclose income for loans made to business entities – if a loan is coded as being made to a business entity, the system should not ask to verify that the income is N/A). That could have saved me about 4 hours in making those validations in February. For the most part, though, I like the FFIEC DES software and don't want to see many changes. It would be more important to me to keep the system free of charge.

For technical assistance, I would prefer to continue to have available something similar to the "Getting It Right" document currently available on the FFIEC website for more general HMDA questions. It would be helpful if more concrete examples were provided in that document. I would prefer an email system for asking more detailed HMDA questions where an acknowledgement of receipt of the questions and an estimated response time would be provided.

DISCUSSION TOPIC 4 – INSTITUTIONAL AND TRANSACTIONAL COVERAGE

We would have been required to submit HMDA data in 2013 if the loan volume threshold under consideration would have been in effect. Last year, 118 of our 288 reported applications did not result in a loan origination. For the most part, the costs for these applications are very similar to loans that originated. Most of the information needs to be collected and reported, with really the only exception being the rate spread. However, we do report reasons for denial, so that review takes care of the amount of time saved for not calculating rate spreads. In my opinion, reportable, originated loans should count towards the 25 loan proposal. If HELOCs are to be reported, then originated HELOCs should count towards the total. I don't see any changes that will be needed for the loan volume threshold under consideration.

We reported 288 applications in 2013. 7% of them would not have been or were not secured by a dwelling. We closed 53 HELOCs, but due to the fact that we do not report HELOCs for HMDA, I am not sure how many HELOC applications were taken that did not result in an originated loan. We took 24 closed-end home equity applications for home improvement and 19 applications for home improvement loans that were not secured by a dwelling. Both loan types are reported by us for HMDA. We do not take applications for reverse-mortgage loans. As the numbers would indicate, we do receive more applications for HELOCs than we do for unsecured home improvement loans, therefore, being required to report HELOC will increase our costs for HMDA compliance, even if we no longer have to report unsecured home improvement loans. I do think that we would see a decrease in the number of issues that we experience with GMI as most of our GMI issues, at least with consumer credit; deal with the unsecured home improvement loans, so there would be some cost savings there. But, that cost savings would not be as significant as the additional cost we would incur in calculating and reviewing rate spreads for our HELOCs. There is no expense associated with the rate spread for unsecured loans, but I would anticipate that there would be for HELOCs. For us and the way we determine the lock-in date for rate spread calculation currently, there will need to be some additional training provided to our lenders as to how to properly calculate the rate spread for HELOCs, but as long that calculation is similar to the rate spread we use in determining the HOEPA status of HELOCs, I don't anticipate this being a huge increase in cost. I would conservatively estimate that our annual HMDA compliance cost will increase from $12,000 to $14,500 with the required inclusion of HELOCs even without additional data points. As noted previously, the additional data points will increase our costs as well, considering the calculations that will be needed for some of them. I'd estimate that with the additional data points and the required inclusion of HELOCs for reporting, our HMDA compliance cost would climb to $28,000 annually.

DISCUSSION TOPIC 5 – MODIFIED LAR

Currently, since we utilize the DES system from the FFIEC to report our HMDA data, our process to generate the modified LAR simply consists of pressing a button within the system and the system generates the modified LAR for us. There is no cost or issues for us associated with the generation of the modified LAR. I would anticipate and would ask that if additional data points are required to be reported but are also to be removed from the modified LAR, that the revised, web-based (as proposed) DES system offers this capability. If it does not, then our logical solution would be to use the spreadsheet that I currently maintain in addition to the information stored in the DES system for monitoring purposes and remove whatever data points are required to be removed from the modified LAR. I do not see this as being of a particular concern from a cost or time perspective. There may be some additional training involved to make people aware of what should be on the modified LAR, but I don't see this entire process taking more than 15 minutes annually, even in the worst of cases.

I will reemphasize my concerns with privacy and the modified LAR. For loans conducted in less populated areas of the country, it is not that difficult, simply by looking public records, to take the current information on the modified LAR and determine the borrower by comparing public records and the LAR. Additional data points will not only make this determination easier, but will also increase the potential damage felt by the borrower when the identity can be determined. There are privacy concerns and potential consumer benefit that must be weighed when expanding HMDA reportable data.

Making additional data available to the CFPB and the other regulations is not enough of a benefit, in my opinion, to expand HMDA data point to the extent proposed.

DISCUSSION TOPIC 6 – Cost of Credit Analysis

As a compliance officer, it is difficult for me to make a determination as to the potential cost impact these changes will make on small entities. I will allow other to speak more on this topic. But I will make two points. First, the impact on cost will most likely be dictated by the market. I believe that we will see a potential $16,000 increase in our HMDA compliance cost. I am sure that we will attempt to recoup those costs as best we can in an effort to maintain our stockholders' equity. This $16,000 per year increase in HMDA compliance does not take into the considerable cost increase in Reg Z and RESPA, BSA, and Reg E compliance that banks have seen in recent years. Again, it is the culmination of all of the pressures that banks are currently under that will determine how aggressively we attempt to recoup those losses. Second, in this current environment of consumer protection, it is difficult to find ways to recoup these increases in compliance costs from consumers. If the markets will allow, I would see a strong possibility that our recouping efforts will be focused on business entities. If that is the case, then unfortunately, small businesses will more than likely be hit hardest. This is why you must be diligent when you consider these revisions to HMDA.

DISCUSSION TOPIC 7 – ADDITIONAL FEEDBACK

As noted in the beginning, I want to take this opportunity to double back and present what I feel to be the true costs of new regulations, not just these new HMDA provisions, but these coupled with the enacted provisions involving mortgage lending. The financial crisis as a result of the mortgage meltdown in 2008 had a disastrous impact on the economy of this country and its citizens. The desire of some large institutions to increase their profits by originating no-doc and low-doc loans that consumers could not afford based on income and/or assets came at a hefty price that we all have to deal. Measures needed to be taken to ensure that this didn't happen again, and I applaud the CFPB in their efforts in drafting regulations to help curtail the possibility of a second mortgage crisis. However, as the cost and compliance burdens continue to be heaped on financial institutions, smaller community banks like mine are going to be forced to make tough decisions that I can assure you we don't want to make. Decisions regarding whether these increase compliance costs and burdens can be justified in our current economic environment will be forced upon us. Are we reaching the point where these laws and regulations will eventually harm the very people they are designed to protect, the American consumers, especially those of low-and moderate income? Community banks have historically attempted to assist its communities and the people in it as best they can. They knew their customers and their stories, both of good times and of bad times. They worked with those customers as they could to help ensure that, in spite of rough, temporary circumstances they were facing, they would be given access to the products of the financial system as appropriate. We could make, for instance, a smaller dollar loan with little in the way of upfront fees, with an appropriate interest rate for a customer to buy a mobile home to place on rented property. Community banks would realize that while they may not make much in terms of profit for that loan, the real value in that loan is the relationship that was built. With the new mortgage regulations and these new HMDA proposals, the cost of making that loan has grown substantially. Is that loan now something that we can justify to our stockholders in making, considering this increase in cost on a loan that was not profitable to begin with? Added to this concern is the fact that, regardless of how limited our fees are and how much we'd like to limit the interest rate charged, that loan will almost assuredly not be considered to be a qualified mortgage with a safe harbor of ability-to-repay requirement, which brings with it a higher risk of potential litigation. With these added pressures, community banks may need to decide to stop making these types of loans. In rural areas, this will cause that market to dissipate, which will not only affect the borrower, but the small business owner who would have sold the mobile home, and the small business owner who would have rented the space for the mobile home. That, to me, is the ultimate cost of the increased pressures placed on community banks with these potential HMDA revisions.

As evidenced in our discussions on March 6, those of us that work in community banks and small credit unions throughout this country will comply, to the best of our abilities, with the new revisions to HMDA. We will continue to focus on meeting the credit needs of our communities. We will continue to make the small dollar loans that the mega-, Wall Street banks are unwilling to make in our effort to meet those needs. That is, or course, until we no longer can from a financial standpoint. As I noted before, it's not a single data point or even a single regulation that concerns me. It is the cumulative effect of the rules and regulations that have been put in place that I believe determine the true costs; costs that I am afraid will lead to fewer smaller institutions, more mergers and acquisitions, which will result in a bigger piece of the financial services pie for those larger institutions that created the issues that the regulations are trying to prevent in the first place. We as small institutions understand the need for additional consumer protection, and we are very respectful of the effort you are making in proposing and creating rules that will both protect the consumer and allow smaller institutions to function as they have. I simply caution you to consider the full ramifications of your decisions to ensure that they do not ultimately harm those they are designed to protect. In particular, for the proposed HMDA revisions please ensure that the additional data that you are asking for, with the added costs to small financial institutions as I have outlined and the increase risk to the compromise of consumer financial privacy, are justified by the benefit they will provide to the American consumer.

Thank you for the opportunity to share my views.

Mark D Williams

<u>APPENDIX B</u>: MATERIALS FOR MARCH 6, 2014, MEETING WITH PANEL

Materials Circulated in Advance of Panel Outreach Meeting:

- Outline of Proposals under Consideration and Alternatives Considered
- Discussion Issues for Small Entity Representatives
- Fact Sheet: Small Business Review Panel Process

SMALL BUSINESS REVIEW PANEL FOR HOME MORTGAGE DISCLOSURE ACT RULEMAKING

OUTLINE OF PROPOSALS UNDER CONSIDERATION AND ALTERNATIVES CONSIDERED

CONTENTS

I. Introduction

Congress enacted the Home Mortgage Disclosure Act (HMDA) in 1975 as part of an initiative both to counter redlining and the effects of disinvestment in urban neighborhoods, and to encourage reinvestment in the nation's cities. HMDA requires lenders who meet certain coverage tests to report detailed information to their federal supervisory agencies about mortgage applications and loans at the transaction level. The information that financial institutions (FIs) report generally does not include personal information that directly identifies individuals, such as name, address, date of birth, or Social Security number. The HMDA data are made public by both the lenders and the government on a calendar year basis, with some redactions for consumer privacy.

As originally adopted, HMDA states its purposes as providing the public and public officials with information to help determine whether financial institutions are serving the housing needs of the communities in which they are located, and helping public officials target public investment to attract private investment in communities. Congress significantly revised HMDA in the 1980s. In particular, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) expanded HMDA to, among other things, require lenders to report race and ethnicity information on applicants and borrowers. The FIRREA amendments established HMDA data as a means to identify possible discriminatory lending patterns and to enforce antidiscrimination statutes. The Board of Governors of the Federal Reserve System (Board) implemented HMDA through Regulation C,[1] until the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred that authority to the Consumer Financial Protection Bureau (Bureau).[2]

Today, HMDA data are the preeminent data source for regulators, researchers, economists, industry, and advocates studying and analyzing trends in the mortgage market for a variety of purposes, including general market and economic monitoring, as well as assessing housing needs, public investment, and possible discrimination. Data users have long called for expansion of HMDA data to keep pace with the mortgage market's evolution. In response to the subprime market's emergence, the Board amended Regulation C in the mid-2000s to require lenders to report loan pricing information on loans deemed "higher-priced." Many continued to press for HMDA's improvement, however, particularly during the market's rapid growth into nontraditional lending products, and its subsequent collapse in 2008. Congress responded by enacting changes to HMDA as well as reforms to the mortgage market and the broader financial system in the Dodd-Frank Act.

A. Why is the Bureau proposing to change HMDA regulations?

The Dodd-Frank Act requires the collection and reporting of several new data points, including information about borrowers (age and credit score), information about loan features and pricing, and, as the Bureau determines to be appropriate, unique identifiers for loans, properties, and loan originators. It also authorizes the Bureau to require FIs to collect and report "such other information as the Bureau may require."

[1] 12 CFR part 1003.

[2] See Appendix C.

In addition to the changes to HMDA data, a number of other public and private data standards initiatives have launched in recent years in partial response to the mortgage market and broader financial crises. These include a significant evolution in private market data reporting practices toward a single common standard, and rulemakings and other initiatives by the Bureau and other agencies under the Dodd-Frank Act to improve mortgage market information, ranging from information provided to consumers, to information provided to secondary market investors.

In light of the various Dodd-Frank Act requirements and private market data standards initiatives, the Bureau believes that it is important to begin a broad public dialog about the HMDA rulemaking at this time and to use implementation of the new HMDA requirements as an opportunity to comprehensively review the HMDA reporting regime. In particular, the Bureau seeks to assess whether there are opportunities to improve upon the data collected, reduce unnecessary burden on financial institutions, and, as appropriate, to modernize and streamline the manner in which FIs collect and report data. The Bureau plans to propose revisions to Regulation C to implement the Dodd-Frank Act amendments to HMDA and to clarify current regulatory requirements. The Bureau also plans to use its discretionary authority to propose other new requirements that it believes will ensure that HMDA data continue to serve HMDA's purposes.

Specifically, the Bureau is considering proposals related to:

- Which lenders are required to report HMDA data;
- The types of loans and applications that must be reported;
- The information required about each loan or application; and
- Potential operational improvements in the HMDA compliance system.

B. What are the goals of the SBREFA process?

The consultation process developed in the Small Business Regulatory Enforcement Fairness Act (SBREFA)[3] provides a mechanism for the Bureau to hear directly from small financial services providers early in the rulemaking process about new regulatory requirements it is contemplating. SBREFA directs the Bureau to convene a Small Business Review Panel (Panel) when it is considering a proposed rule that would have a significant economic impact on a substantial number of small businesses. The Panel includes representatives from the Bureau, the Chief Counsel for Advocacy of the Small Business Administration (SBA), and the Office of Management and Budget's Office of Information and Regulatory Affairs (OMB). SBREFA requires the Panel to meet with a selected group of small entity representatives (SERs), which include representatives from small businesses, not-for-profits, and local governments (collectively, the small entities) that are likely to be directly affected by the regulation that the Bureau may issue.

During the Panel outreach meeting, SERs provide the Panel with important feedback on the potential economic impacts of complying with proposed regulations. They may also provide feedback on regulatory options under consideration and regulatory alternatives to minimize these impacts. In addition, the Dodd-Frank Act directs the Bureau to collect the advice and recommendations of the SERs concerning whether the proposals under consideration might

[3] 5 U.S.C. 609(b), *available at* http://www.sba.gov/content/rfa-overview-0.

increase the cost of credit for small businesses, not-for-profits, or local governments that themselves take out loans and on alternatives to minimize any such increase.[4]

Within 60 days of convening, the Panel is required to complete a report on the input received from the SERs during the panel process. The Bureau considers the SERs' feedback and the Panel's report as it prepares the proposed rule. Once the proposed rule is published, the Panel's final report will be placed in the public rulemaking record.

The Bureau is convening a Panel to obtain input from the selected SERs on proposals under consideration to amend Regulation C. The Bureau has prepared this summary of the proposals under consideration for the SERs in order to provide the necessary background and facilitate the Panel process. Because the goal of the Panel is to gather feedback and understand how the regulatory options may impact small entities, this summary focuses primarily on the benefits and costs of the proposals under consideration for small entities. The Panel process is only the first public step in the full rulemaking process, however. No financial institution will be required to comply with the Dodd-Frank Act amendments to HMDA or new regulatory requirements before a proposed rule is published, public comment is received and reviewed by the Bureau, a final rule is issued, and the implementation period designated in the final rule expires. One of the specific questions the Bureau will seek input on during the SBREFA process is how long small entities would need to implement the proposals under consideration.

II. Current HMDA Requirements and Compliance Process

A. What are the current requirements of HMDA?

The Home Mortgage Disclosure Act and Regulation C (collectively HMDA, as appropriate in context) require covered financial institutions (FIs) to compile and disclose on a calendar-year basis data about applications for, originations of, and purchases of certain mortgage loans.

Currently whether a FI is required to compile and report data under HMDA is determined by coverage tests based on assets, loan volume, geographic location, and, in some cases, whether the FI makes loans that are federally related.[5] These tests differ based on whether the FI is: (1) a bank, savings association, or credit union (depository institution or DI); or (2) a for-profit mortgage-lending institution other than a bank, savings association, or credit union (nondepository institution or non-DI).[6] The tests are summarized in the following table:

[4] Dodd-Frank Act, sec. 1100G, 5 U.S.C. 603(d).

[5] Generally, a FI makes federally related mortgage loans if: (1) the FI makes a mortgage loan; *and* (2) either the FI: (a) is federally insured or regulated, or (b) makes a mortgage loan that was insured, guaranteed, or supplemented by a Federal agency, or was intended for sale to Fannie Mae or Freddie Mac.

[6] 12 CFR 1003.2 (definition of financial institution), implementing the HMDA definition of "depository institution." HMDA defines the term "depository institutions" to include banks, savings associations, credit unions and "other lending institutions" which are engaged for profit in the business of mortgage lending. 12 U.S.C. 2802(3), (5).

Current HMDA Coverage—Institutions

Criterion	DI	Non-DI
Location	• branch or home office in a Metropolitan Statistical Area (MSA)	• branch or home office in an MSA OR • received applications for, originated, or purchased ≥ 5 home purchase loans, home improvement loans, or refinancings on property in an MSA
Size (assets/loan volume)	• total assets > annually adjusted threshold (currently $43 million) AND • originated 1 or more home purchase or refinance loan secured by a first-lien on a 1- to 4-family dwelling	• total assets > $10 million, or ≥ 100 home purchase/refinance loans AND • ≥ $25 million home purchase/refinance loans or 10% of loan volume in home purchase/refinance loans
Other	• meets federally related test	• N/A

Currently, an FI is required to submit data only if the loan would be made for at least one of three purposes: home purchase, home improvement, or refinancing. Home purchase and refinancing loans must be reported if they are secured by liens on dwellings, but a loan made for home improvement purposes must be reported whether or not it is secured by a lien on a dwelling. Regulation C adds an additional layer of coverage complexity by providing that financial institutions may (but are not required to) report home equity lines of credit (HELOCs) that are made in whole or in part for the purposes of home improvement or home purchase. The categories of transactions that are currently covered by HMDA are summarized in the following table:

Transactions Currently Covered by HMDA

Loan Purpose	Dwelling-Secured		Not Secured by a Dwelling
	Closed-end	HELOC	
Home purchase	Y	Optional	N
Home improvement	Y	Optional	Y
Refinancing	Y	Y	N
Other/unknown	N	N	N

Information about each application or loan, and about each applicant or borrower, is reported on a transaction basis on a HMDA loan/application register (LAR). For each transaction reported, the FI generally submits data about:

- The loan, such as type and amount;
- The property, such as type and census-tract location (which requires FIs to obtain accurate geographic information by geocoding loans);
- The action taken by the FI, such as originating or purchasing the loan, or denying the application; and
- The applicant(s) or borrower(s), including information on ethnicity, race, sex, and income.

Regulation C requires FIs to record a transaction on the LAR within 30 calendar days after the end of the quarter in which final action is taken on the transaction. FIs must send their LARs to the Board, which processes the data on behalf of federal agencies,[7] no later than March 1 following the calendar year for which the loan data are compiled. During the submission process, the FIs and Board check the data for errors and make sure it is edited as appropriate.

FIs must make a modified LAR that has been altered in specific ways to protect privacy interests of applicants and borrowers (modified LAR) available to the public upon request in electronic or printed form. Generally, FIs must be prepared to make their modified LARs available no later than March 31 following the calendar year for which the loan data are compiled.

B. How do small financial institutions currently comply with HMDA?

The Bureau reviewed the current HMDA compliance processes of FIs of various sizes during the development of the proposals under consideration. The Bureau identified **four primary tasks** in FIs' HMDA compliance processes: **data collection**, **reporting and resubmission**, compliance and internal **audits**, and HMDA-related **exams**.[8]

The way that FIs go about HMDA compliance depends in part on the technology that they use to originate mortgage loans generally. Some FIs use a largely manual process to originate the loans and, in turn, a largely manual process to collect and report the data. To the extent that they rely on computer systems, they generally rely on free geocoding and reporting software provided by the FFIEC. Other FIs use some type of general software called a Loan Origination System (LOS) to support the origination of mortgage loans. They then import certain information from the LOS into a separate HMDA Management Software (HMS) system to facilitate geocoding and review, processing, and reporting of the information. The following two example scenarios illustrate different HMDA compliance processes for data collection and reporting and resubmission for small FIs, depending on their number of HMDA-reportable

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[7] The Board processes the data on behalf of the Federal Financial Institutions Examination Council (FFIEC) federal agencies and the U.S. Department of Housing and Urban Development. The FFIEC federal agencies include the Bureau, Board, Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and Office of the Comptroller of the Currency (OCC).

[8] Additional discussion of these tasks can be found in Section IV (Potential Impacts on Small Entities) of this Outline of Proposals Under Consideration.

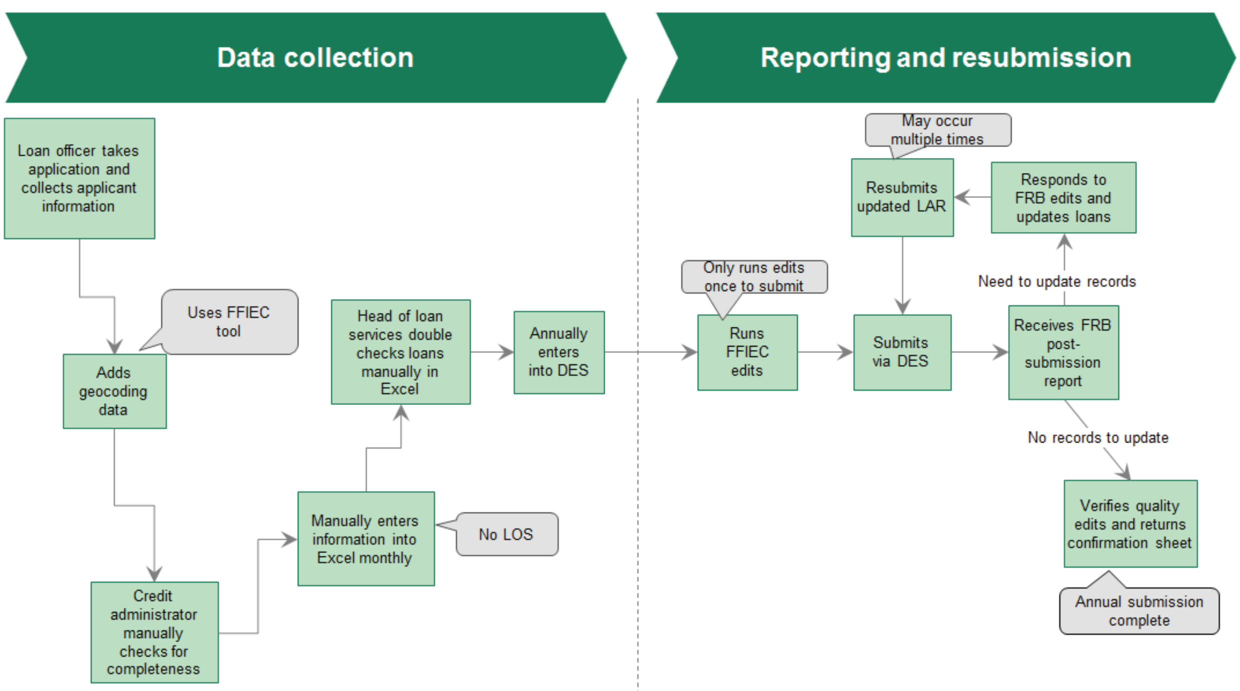
transactions and reliance on technology for reporting (low-volume, low-tech FI or higher-volume, higher-tech FI).[9]

1. Data Collection and Reporting/Resubmission Tasks

i. Low-Volume, Low-Tech FI

An example of a FI that does few HMDA-reportable transactions and does not rely on sophisticated technology for reporting is a FI without LOS and HMS systems that collects and reports HMDA data using a manual process. The loan officer collects the HMDA data from the consumer via application forms and then uses the FFIEC website's geocoding tool to generate census tract information for each loan. Once all information is gathered, a credit administrator manually checks the data for completeness and enters the data into a spreadsheet. The FI may check the data once or more before submitting it. By the March 1 deadline every year, the FI submits the data using the free HMDA data entry software (DES) available for download on the FFIEC's website. The DES runs edit checks and accepts the final submission. The Board reviews the submission and replies to the FI with a post-submission report. In the report, the Board may request data updates or modifications. The FI then makes changes and sends the revised data back to the Board. The FI and Board may engage in this process more than once.

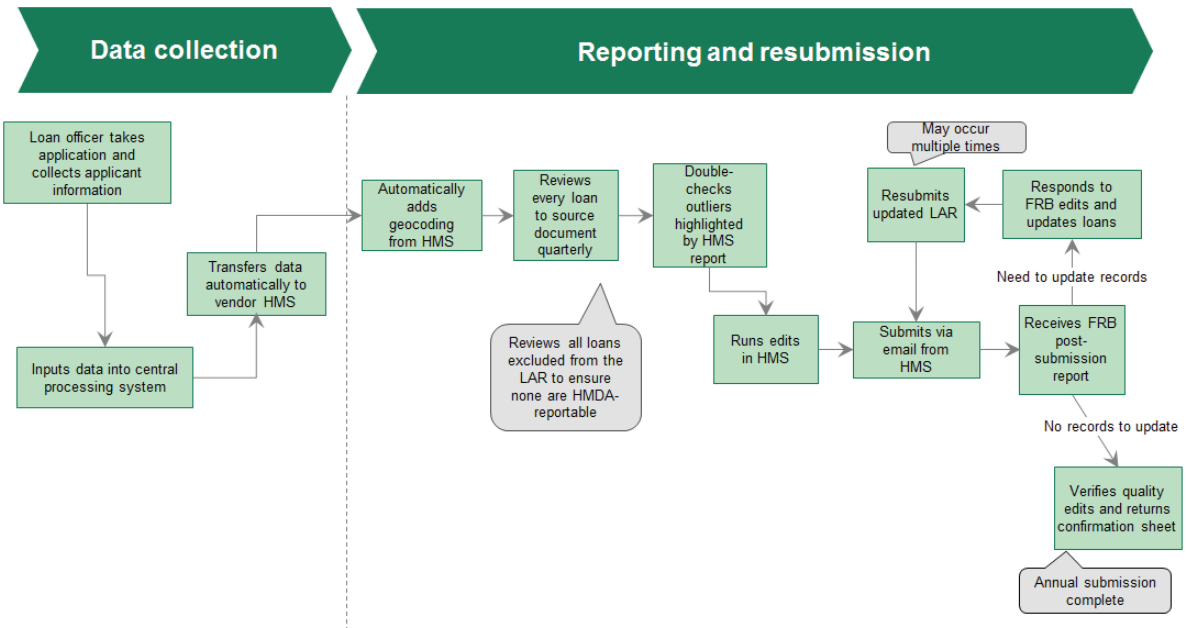
The following provides an example of how a low-volume, low-tech FI might collect and submit its HMDA data:



[9] For purposes of the descriptions of processes in this and the next sections of the Outline of Proposals Under Consideration (Sections II.B.1.i and ii), a low-volume, low-tech FI is a FI with largely manual processes and approximately 50 HMDA LAR records (reported loans or applications) per year. A higher-volume, higher-tech FI is a FI with greater reliance on technology and approximately 1,000 HMDA LAR records per year. The Bureau understands that larger FIs generally have different processes.

ii. Higher-Volume, Higher-Tech FI

A higher-volume, higher-tech FI with LOS and HMS systems generally follows a process similar to that outlined above but enters the data into the LOS upon receipt from the consumer. The data are then transferred to a vendor HMS that automatically does the geocoding. The HMDA data may be periodically reviewed throughout the year to ensure completeness and to flag and correct errors, and personnel may manually check any outliers highlighted by HMS reports. A final edit check may be run before the HMS submits the final data to the Board via email. The Board reviews the submission and replies with a post-submission report. In the report, the Board may request data updates or modifications. The FI then makes changes and sends the revised data back to the Board. The FI and Board may engage in this process more than once. The following provides an example of how a higher-volume, higher-tech FI may collect and submit HMDA data using LOS and HMS systems:



2. Audits and Exams Tasks

FIs may have a variety of internal compliance/audit programs. These range from informal staff training and edit checks, to well-defined internal compliance programs that follow established business procedures and include internal audits of HMDA data to ensure its accuracy. More sophisticated programs also include internal and external audits that focus on HMDA reporting accuracy, fair lending audits, and risk assessments.

HMDA-related examinations by regulators are also a factor in FIs' HMDA compliance processes. Typically, HMDA data review is part of a larger exam, such as a compliance management system review or fair lending examination. HMDA data are also used as part of Community Reinvestment Act (CRA) exams for DIs, and state regulators may also request HMDA data as part of state exams. Typically, for a federal HMDA-related examination, the FI will receive an exam request, provide any requested information and documents, answer follow-up questions during the exam, address any compliance issues identified and, if needed, resubmit corrected HMDA data.

III. What Changes to HMDA Is the Bureau Considering?

As discussed above, in addition to implementing the Dodd-Frank Act changes to HMDA requirements, the Bureau is using this opportunity to review the HMDA reporting regime in its entirety to determine whether and where there are opportunities to improve upon the data collected and, as appropriate, to modernize and streamline the manner in which FIs collect and report data. The Bureau is considering proposals related to:

- Which FIs are required to report HMDA data;
- The types of loans and applications that must be reported;
- The information required about each loan or application; and
- Potential operational improvements in the HMDA compliance system.

The Bureau is consulting with other federal agencies on the proposals under consideration, which are described below in this Section. The possible impacts of the proposals under consideration are addressed in Section IV of the Outline, and additional background on specific data points is provided in Appendix A.

A. Who would be required to collect, report, and disclose information?

As described above, whether a FI is covered by Regulation C and required to report HMDA data currently is determined by reference to complicated coverage tests based on assets, loan volume, geographic location, and whether the FI makes loans that are federally related. Many critics have pointed to the coverage tests as an area of complexity in need of clarification and simplification. In June 2010, the Board announced public hearings on potential revisions to Regulation C. Three of the purposes of the hearings were to provide information that would assist the Board in its review of Regulation C, to help assess the need for additional data, and to identify emerging issues in the mortgage market that could warrant additional research. As part of its 2010 public hearings, the Board identified coverage as one of the topics for discussion. It requested comment on whether it should require reporting from additional types of institutions, whether it should exempt certain types of institutions from reporting, and if any other changes should be made regarding which types of institutions are required to report.[10] The Bureau has reviewed the comments and testimony presented to the Board during the 2010 hearings as the Bureau developed its proposals under consideration concerning institutional coverage.

The institutional coverage tests differ depending on whether the FI is a DI or non-DI. The Bureau is concerned that the value of data from relatively small-volume reporters may not outweigh the reporting burden. In addition, the burden of reporting only a few loans is not shared by all FIs. Commenters in the Board's 2010 hearings have noted that the existing coverage scheme creates an unlevel playing field for lenders.[11] In some instances, small

[10] Home Mortgage Disclosure Act, Notice of Hearing, 75 FR 35030 (June 21, 2010). The hearings were conducted on July 15, 2010, in Atlanta (Atlanta Hearing); August 5, 2010, in San Francisco (San Francisco Hearing); September 16, 2010, in Chicago (Chicago Hearing); and September 24, 2010, in Washington, DC (DC Hearing), a*vailable at* http://www.federalreserve.gov/communitydev/hmda_hearings.htm.

[11] See testimony of Faith Anderson, Atlanta Hearing; testimony of Allison Brown (Federal Trade Commission), DC Hearing; testimony of Keith Ernst, San Francisco Hearing.

community banks and credit unions making few—or even one—mortgage loan per year are subject to HMDA reporting requirements, while non-DIs making substantially more loans may not be covered at all because the FI is not a bank, savings association, or credit union and makes less than 100 loans.

To simplify the coverage tests, the Bureau is considering proposing a single, consistent minimum loan volume threshold for HMDA coverage for both DIs and non-DIs. The Bureau is considering a threshold of 25 closed-end mortgage loans, but plans to conduct extensive outreach on whether some other threshold may be more appropriate. Under this approach as currently envisioned, only FIs that originated 25 or more closed-end home purchase or refinance loans in a given year (and meet current location and asset-size tests) would be required to report HMDA data. The Bureau's preliminary view is that a 25-loan test would benefit FIs that are not significantly involved in originating dwelling-secured loans.[12] Such a test could level the playing field between DIs which currently must report if they make only 1 mortgage loan and non-DIs which must report when they make at least 100 loans or have assets of at least $10 million. The Bureau also seeks input on what types of loans should count towards the 25-loan threshold, including closed-end home equity loans (HELs) and HELOCs, which typically are not first-lien products, and reverse mortgages. The Bureau is interested in feedback on how any such changes would affect both FIs and users of the HMDA data.

Using 2012 data, the 25-loan threshold would eliminate approximately 1,775 DIs (of which approximately 1,630 are small entities) from HMDA coverage, and would add approximately 450 non-DIs (of which approximately 350 are small entities) to HMDA coverage, as discussed further in the Impact Analysis in Section IV of this Outline of Proposals Under Consideration. The reduction in HMDA reporters that are DIs would likely remove the reporting of approximately 60,000 loans, which is less than 1 percent of the approximately 6.8 million DI loans reported by DIs that must report HMDA data. Thus, the 25-loan threshold would continue to allow the collection of data that covers most of the mortgage market and would provide a more consistent snapshot of DI and non-DI activity.

The Bureau recognizes that FIs who are either about to go over the loan-volume threshold or about to drop below it would need sufficient time to adjust their business practices, and will seek input on this aspect of adopting a single uniform threshold across the whole market.

B. What types of loans and applications would be covered?

Mortgage loans, as defined by HMDA, are loans "secured by residential real property" or "home improvement loan[s]."[13] As described in Section II above, current Regulation C generally requires FIs to report information regarding loans and applications made for one of three purposes: home purchase, home improvement, or refinancing.[14] Reporting of home equity lines of credit (HELOCs) used for these purposes is generally optional.[15]

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[12] The statutory asset threshold and federally related requirements applicable to DIs would be retained. 12 U.S.C. 2808(a), (b).

[13] 12 U.S.C. 2802(2).

[14] 12 CFR 1003.2.

[15] FIs may (but are not required to) report HELOCs made in whole or in part for the purposes of home improvement or home purchase. 12 CFR 1003.4(c)(3).

Under Regulation C's existing transaction reporting regime, certain loans that are secured by residential real property need not be reported (*e.g.*, home equity loans with no stated purpose, HELOCs, certain reverse mortgages). Yet home improvement loans must be reported even if they are not secured by a dwelling. Moreover, at times FIs may find it difficult to identify the borrower's purpose for some loans or resolve reporting questions when loans are for multiple purposes.

The Bureau is considering proposing an amendment to Regulation C's transactional coverage provisions to require institutions to report information concerning all dwelling-secured loans,[16] rather than tying coverage primarily to the purpose of the loan. For FIs that meet the coverage threshold as would be defined by the rule (discussed above), this proposal would, in effect:

- Eliminate reporting of home improvement loans that are not secured by a dwelling;
- Capture all HELs;
- Capture all HELOCs by eliminating optional reporting; and
- Capture all reverse mortgages.

As described in more detail in Appendix A, the proposals under consideration would also require that HELOCs and reverse mortgages be identified by loan type, to distinguish them in the data from other categories of loans with different pricing structures and features.

The proposal under consideration would apply the dwelling-secured test for reporting under HMDA both to applications for loans to be secured by a dwelling and purchases of loans secured by a dwelling. The Regulation C definition of "application" has been criticized as providing FIs with too much latitude to decide which contacts with consumers to report as applications. While the Bureau is currently disinclined to revise the definition of application, the Bureau encourages feedback and specific suggestions regarding any aspect of the definition that may benefit from greater clarity (see Appendix A, section B).

The Bureau believes the proposal under consideration to cover dwelling-secured loans could establish a more streamlined, bright-line approach that may be simpler for FIs to apply than the current rules that generally rely on a consumer's stated purpose for the loan. The Bureau also anticipates this approach would yield more consistent and more useful data.

C. What information would be reported and how would it align with existing systems and industry standards?

For each record of an application, originated loan, or purchased loan submitted as part of a FI's LAR, HMDA currently includes reporting of approximately 2 dozen separate pieces of information, or data points.[17] The Dodd-Frank Act amended HMDA to add new data reporting

[16] The definition of "dwelling" in Regulation C includes any residential structure, whether or not attached to real property, including mobile and manufactured homes. 12 CFR 1003.2. The Bureau expects that the scope of this definition would not be changed if this proposal were adopted, so that loans secured by dwellings would be reported regardless of whether the dwellings are real or personal property (see Appendix A).

[17] This Outline of Proposals Under Consideration uses the term "data point." In general usage, data points are also commonly called "data elements," "data fields," and "variables."

requirements and enhance certain existing data points. As part of this rulemaking, the Bureau is comprehensively reviewing all current data points in Regulation C, carefully examining each data point specifically mentioned in the Dodd-Frank Act, and considering proposals to collect other appropriate data points to fill gaps where additional information could be very useful to better understand the HMDA data. The dataset under consideration is summarized below in chart form and includes: improvements and technical revisions to current Regulation C data requirements; the implementation as required or appropriate of the categories of information specifically identified in the Dodd-Frank Act; and the addition of other data points that target existing gaps in the information currently collected and would further the purposes of HMDA discussed in the Introduction (briefly, to ensure FIs are serving the credit needs of their communities, encourage private investment, and assist in identifying potential fair lending problems).

1. Table of Current Data Points and New Data Points Under Consideration

The first part of the following table lists existing reporting requirements for FIs under HMDA and Regulation C, as well as the new requirements added by the Dodd-Frank Act. In addition, section 1094 of the Dodd-Frank Act provided the Bureau with the authority to mandate reporting of “such other information as the Bureau may require.” The second part of the table lists additional data points that the Bureau is considering adding to Regulation C under this authority.

	Current Regulation C Reporting	Dodd-Frank Act Additions
Application/Loan Information	• Application/loan number • Date of application/loan • Application/loan type • Application/loan purpose • Request for preapproval o Result of preapproval request • Application/loan amount • Action taken type • Date of action taken • Type of purchaser of loan • Rate spread (higher-priced loans) • HOEPA status • Lien status • Reasons for denial (at FI's option)	• Total points and fees • Rate spread (for all loans) • Prepayment penalty term • Introductory interest rate term • Nonamortizing features • Loan term • Application channel (retail, broker, other) • Universal loan ID* • Loan originator ID*
Property Information	• Property type • Owner occupancy • Property location, by o MSA or Metropolitan Division o State o County, and o Census tract	• Property value • Parcel ID*
Applicant/ Borrower Information	• Race • Ethnicity • Sex • Gross annual income	• Age • Credit score

* The Dodd-Frank Act provides for the collection and reporting of a universal loan identifier, a unique loan originator identifier, and a parcel identification number "as the Bureau may determine to be appropriate."

	Additional Data Points Under Consideration**
Application or Loan Information	• Automated underwriting systems (AUS) results • Making it mandatory, rather than optional, to report the reason an application was denied • Qualified Mortgage (QM) status of loan, as determined by the FI • Combined loan-to-value (CLTV) ratio • Additional points and fees information, including: o Total origination charges o Total discount points o Borrower's risk-adjusted, pre-discounted interest rate o Interest rate received
Property Information	• Replacing property type with the number of units financed and the dwelling's construction method • Whether multifamily property has an affordable housing deed restriction • Information concerning manufactured housing: o Whether the loan is secured by real or personal property o Whether homeowner rents or owns the property where home is sited
Borrower or Applicant Information	• Debt-to-income ratio
Other information	• Unique FI entity identification number (to modify or replace the current Reporter's identification number)

** In addition to considering these new data points, the Bureau is considering amending certain current data points to improve the integrity of the data reported. For example, the Bureau is considering expanding the existing loan purpose data point (or otherwise revising Regulation C) to provide for separate reporting of cash-out refinance, reverse mortgage, and home equity line of credit (HELOC) transactions.

Appendix A includes additional background on each of the new and revised data points, including some historical perspective for the data points, their potential importance to the HMDA dataset, and how the Bureau is approaching each of the data points under consideration. Section IV of this Outline of Proposals Under Consideration reviews the impacts of these potential changes to the data points that FIs would be required to report.

2. Summary of Data Point Changes Under Consideration

There are also other ways to group the HMDA data points in order to understand and discuss the potential value and interrelatedness of certain information. The new and revised HMDA data points that the Bureau is considering requiring FIs to collect are grouped by subject matter area and briefly described in this section of the Outline of Proposals Under Consideration. Appendix A includes more detailed information about each of the following categories and data points.

Unique Identifiers. The recent housing crisis exposed a number of data gaps, risk management failures, and shortcomings in operational controls throughout the mortgage finance system. The Dodd-Frank Act calls for the creation or enhancement of certain unique identifiers that could further the purposes of HMDA and address some of these data gaps and control failures through better integration of the fragmented loan data currently available.

Being able to identify, label, and track key characteristics of a mortgage loan across various systems will facilitate efforts to determine whether FIs are meeting the needs of the communities they serve, as well as fair lending analysis. For instance, unique identifiers could make it easier to identify where there are multiple loans secured by the same property, understand investor risk, track HMDA reporting and compliance by affiliated FIs, and understand how the loans in a community perform through their lifecycles.

The Bureau is considering the following proposals related to unique identifiers (see Appendix A), as it is generally directed to do by the Dodd-Frank Act:

- *Entity Identifier* – replacing the current HMDA Respondent/Reporter ID (HMDA RID) with an entity identifier that would facilitate identification of the corporate entity and its affiliated companies and parent/subsidiary relationships, or expanding and defining new requirements for the current HMDA RID.
- *Loan Identifier* – revising the current loan ID requirement to create a unique loan identifier to facilitate tracking a loan through its lifecycle across multiple platforms (*e.g.*, servicing, foreclosure database). This proposal would necessitate the establishment of a unique identifier at the time of application for each loan.
- *Loan Originator Identifier* – requiring reporting of the unique identifier number provided under the Nationwide Mortgage Licensing System and Registry (NMLS) for the employee who took the application or originated the loan.
- *Property Identifier* – requiring reporting of a unique identifier for each property (such as the address or geospatial coordinates) to facilitate identification of properties across multiple platforms and, thus, potentially reduce geocoding burden. Currently, FIs generally report the census tract, county, state and MSA in which the property is located.

Application Data. HMDA data currently includes some data about the consumer's application and how it was resolved (see Appendix A). To implement certain Dodd-Frank Act requirements, the Bureau is considering proposing to require submission of the following additional data about the mortgage loan application process:

- *Application Channel* – whether the application was submitted through a retail, wholesale, or correspondent channel.
- *Automated Underwriting System Results* – the name of the automated underwriting system (AUS) used to evaluate the application and the AUS recommendation.
- *Denial Reasons* – the reasons an application was denied. Currently, reporting denial reasons is required only for FIs that are supervised by the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

Borrower Data. Data about applicant and borrower characteristics are important for HMDA purposes (see Appendix A). To fulfill these purposes and implement certain Dodd-Frank Act requirements, the Bureau is considering proposing to require submission of the following additional data about applicants and borrowers:

- *Age* – the age of applicant(s) and borrower(s).
- *Credit Score* – numerical credit score for applicants and co-applicants used to make the credit decision.
- *Debt-to-Income Ratio* – the DTI relied on by the institution in processing the application.

Loan Types. Distinguishing different types of loans is important to analyzing HMDA data and in reviewing loans with similar characteristics. The ability to distinguish loan types may be even more necessary if the Bureau requires FIs to report all dwelling-secured loans. The Bureau is considering proposing to require submission of data that would build on existing requirements to permit more consistent identification of the following loan types (see Appendix A):

- *Cash-Out Refinancing* – separately identifying refinancing transactions where the borrower takes out equity.
- *HOEPA Status* – revising the existing field to specify whether the loan is covered by the Home Ownership and Equity Protection Act (HOEPA) because of points and fees, rate, or both.
- *Qualified Mortgage Status* – identifying whether the FI classified the mortgage as a Qualified Mortgage.
- *Home-Equity Line of Credit (HELOC)* – requiring an indicator for HELOCs.
- *Reverse Mortgage* – requiring an indicator for reverse mortgages.

Loan Features. A common criticism of HMDA prior to the Dodd-Frank Act was that FIs were not required to report enough detail about loan features to identify risky products. Additional information about loan features will provide a clearer picture of how FIs are serving their communities and will facilitate analyzing loans with similar terms (see Appendix A). As required by the Dodd-Frank Act, the Bureau is considering proposing to require submission of the following data related to loan features:

- *Loan Term* – the maturity term of the loan in months.
- *ARM Introductory Term* – the term in months of the initial fixed interest rate period for an adjustable rate mortgage.
- *Prepayment Penalty Term* – the term in months of any prepayment penalty.
- *Balloon Payments, Interest-Only Payments, and Negative Amortization* – indicators for the presence of features related to loan amortization.

Loan-to-Value. The loan-to-value ratio (LTV) is an important underwriting and pricing consideration because it measures the adequacy of the collateral to support the loan (see Appendix A). The Bureau is considering proposing to require submission of the following data related to LTV:

- *Property Value* – the value of the residential property related to the loan. Reporting property value is required under the Dodd-Frank Act and will allow calculation of LTV when combined with loan amount (which is currently reported).
- *Combined Loan-to-Value* – the ratio of the combined unpaid principal balance of multiple loans to the property value, using the amounts relied on by the FI in processing the application.

Pricing. Similar to the information on loan features, the pricing information collected under Regulation C prior to the Dodd-Frank Act (rate spread for higher-priced mortgage loans[18] and a HOEPA flag) had been criticized as inadequate to serve HMDA's purposes. Additional pricing data will address this inadequacy. The Bureau is considering proposing to require submission of the following data points related to pricing, several of which are required by the Dodd-Frank Act (see Appendix A):

- *Rate Spread* – the rate spread for all loans, not just those that exceed the threshold for higher-priced mortgage loans.
- *Total Points and Fees* – total points and fees as defined by Regulation Z.[19]
- *Total Origination Charges* – total origination charges paid by the borrower to the creditor and loan originators at or before closing, as disclosed under Regulation Z.
- *Total Discount Points* – total points paid by the borrower to reduce the interest rate, as disclosed under Regulation Z.
- *Interest Rate* – the borrower's interest rate after applying discount points.
- *Risk-Adjusted, Pre-Discounted Interest Rate* – the rate that would have been available to the borrower with zero (or the closest-to-zero) discount or premium.

Property Data. Information about the property related to the loan is key for HMDA's purposes. Regulation C currently requires FIs to record the property type to which a loan or application relates.[20] Appendix A to Regulation C provides three reporting values, or enumerations, for this information: (1) one- to four-family dwelling (other than manufactured housing); (2) manufactured housing; and (3) multifamily dwelling. This information, however, has been criticized as inadequate to understand the underwriting and pricing of manufactured and multifamily home loans, as distinct from site-built single-family housing. Reporting of financed unit count and construction method type could facilitate a more robust analysis of multifamily housing and provide an opportunity to clarify certain aspects of manufactured housing reporting. In addition, this information is collected by the Fannie Mae and Freddie Mac (collectively, Government-Sponsored Enterprises or GSEs) under established industry standards, so replacing the existing reporting requirement with better targeted data reporting could also streamline reporting by many FIs. Additional detail about the property would provide greater insight into how FIs are serving the credit needs of their communities and provide better data for targeting public investments and enforcing fair lending laws in the manufactured housing market (see Appendix A). The Bureau is considering the following proposals related to property:

- *Financed Units Count/Construction Method* – replacing the existing property type data point with a requirement to report data on the number of units financed and construction method (such as manufactured or site-built).
- *Manufactured Housing Details* – requiring reporting whether a manufactured home loan is secured by real property or personal property (a chattel loan), and whether the borrower owns or rents the underlying land.

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[18] Generally, higher-priced mortgage loans are defined as loans with annual percentage rates (APRs) that exceed the average prime offer rate (APOR) for a comparable transaction by at least 1.5 percentage points for first-lien loans and 3.5 percentage points for subordinate lien loans. APORs are estimated using data reported by Freddie Mac in its Primary Mortgage Market Survey.

[19] Regulation Z, 12 CFR part 1026, implements the Truth-in-Lending Act.

[20] 12 CFR 1003.4(a)(5).

- *Multifamily Affordable Housing* – requiring reporting whether multifamily properties have affordable housing deed restrictions.

***Privacy Considerations*.** The new and revised HMDA data points under consideration for proposal by the Bureau are intended to further the three purposes of HMDA discussed in the Introduction. The Bureau believes the amended set of data points would provide a much more detailed picture of the mortgage market in order to serve these three purposes and fill gaps in information that have been identified as important by Congress, federal agencies, community groups, and others.

However, while there would be significant benefits to having this additional information about the mortgage market, the Bureau is committed to balancing the benefits against the costs of collecting the information that is newly identified or authorized in the Dodd-Frank Act. While FIs rely on consumer information to underwrite loans and a significant amount of information regarding real estate and mortgage transactions is already available in public records, the Bureau is also sensitive to privacy concerns regarding what information FIs collect, submit to the federal government, and release to the public about their applicants and borrowers, as well as what information the federal government compiles and subsequently releases. The Bureau's ongoing examination of the potential impacts on privacy is reflected in many of the proposals under consideration outlined in these materials, and the Bureau expects to conduct extensive additional analysis and outreach about privacy considerations in conjunction with the rulemaking process.

3. Aligning HMDA Data with MISMO/ULDD Standards

The Bureau is also considering how the HMDA data submission requirements could be revised to improve data quality, while also making compliance easier for FIs.

Currently, HMDA data are submitted in the LAR format, consistent with the instructions in Appendix A to Regulation C.[21] The data points reported on each LAR entry are defined by Regulation C, its appendices, and the official commentary.[22] FIs might also seek further information in other materials.[23] FIs must submit the data in automated, machine-readable format that conforms to the LAR format, except for institutions that report 25 or fewer entries, which may submit their LAR entries in paper format.[24]

FIs maintain electronic records of mortgage loan originations and applications in many forms and many systems other than those used for HMDA reporting. In many cases, these systems use different data points, use different data methodologies, or define data points differently than under Regulation C, with the result that those systems may not be directly compatible with the HMDA LAR format. These differences often require institutions to use additional software and modify data in existing systems in order to submit HMDA LAR data in the proper format.

[21] 12 CFR part 1003, App. A.

[22] 12 CFR part 1003.

[23] *E.g.*, HMDA Getting It Right Guide, FFIEC Data FAQs, *available at* http://www.ffiec.gov/hmda/.

[24] 12 CFR part 1003, Supp. I, comment 1003.5(a)-2.

The Bureau believes that the burden associated with Regulation C compliance and data submission can be reduced by aligning the requirements of Regulation C to existing industry standards for collecting and transmitting data on mortgage loans and applications. The Bureau believes that promoting consistent data standards for both industry and regulatory use has benefits for market efficiency, market understanding, and market oversight.[25] Therefore, the Bureau is considering proposing to use the HMDA rulemaking as an opportunity to align the HMDA data requirements with the widely used Mortgage Industry Standards Maintenance Organization (MISMO) data standards for residential mortgages, to which there is free and open access.[26] The HMDA data points and MISMO data standards would be aligned to the greatest extent practicable while fulfilling the purposes of HMDA.

The Federal Housing Finance Agency (FHFA) directed the GSEs to develop a Uniform Mortgage Data Program (UMDP) to enhance the accuracy and quality of mortgage loan data delivered to each GSE.[27] A key component of the UMDP is the Uniform Loan Delivery Dataset (ULDD), which leverages MISMO to identify the data points and the data delivery format required in connection with the delivery of single-family loans to each GSE.[28] As of July 23, 2012, all loans delivered to the GSEs have been required to meet ULDD requirements. Given that currently approximately 70% of all loans are eventually sold to the GSEs – and that a large segment of the market sells at least some of their production to the GSEs directly or indirectly – a significant portion of the market is already operating in the MISMO data standard universe.[29]

In order to develop this proposed alignment with industry standards, the Bureau is analyzing each data point currently included in Regulation C, each new data point specified in the Dodd-Frank Act, and each additional data point under consideration by the Bureau to determine whether analogous data exists in the ULDD data set (first preference) or the larger MISMO data dictionary (second preference). The Bureau will also need to determine if the MISMO/ULDD definitions would be adequate to meet the objectives of HMDA and Regulation C.

The Bureau believes that the efficiencies achieved by aligning HMDA data with widely used industry data standards will grow over time and that adding new data, if any, to HMDA in the future would be less burdensome. However, the Bureau understands that some small FIs may not use the ULDD or MISMO data standards because they do not sell loans to the GSEs and

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[25] The Department of Treasury's Office of Financial Research has identified the lack of consistent data standards as a key source of risk during the recent financial crisis, and has noted the benefits of consistent data standards for both industry and regulators. Office of Financial Research, 2012 Annual Report, Chapter 5, *available at* http://www.treasury.gov/initiatives/wsr/ofr/Documents/OFR_Annual_Report_071912_Final.pdf.

[26] MISMO is a nonprofit mortgage technology standards body: http://www.mismo.org/default.htm.

[27] Federal Housing Finance Agency, Fannie Mae and Freddie Mac Launch Joint Effort to Improve Loan and Appraisal Data Collection (May 24, 2010) , *available at* http://www.fhfa.gov/webfiles/15748/Uniform_Mortgage_Data_Program.pdf.

[28] *See* Fannie Mae, Uniform Loan Delivery Dataset (ULDD): https://www.fanniemae.com/singlefamily/uniform-loan-delivery-dataset-uldd ; and Freddie Mac Uniform Loan Delivery Dataset: http://www.freddiemac.com/singlefamily/sell/uniform_delivery.html.

[29] *See Inside Mortgage Finance* (February 1, 2013).

conduct only portfolio lending. The Bureau is interested in learning more about the potential effect on small FIs of alignment of the HMDA data requirements with MISMO/ULDD data standards.

Section IV of this Outline of Proposals Under Consideration reviews the impact of possible alignment of the HMDA data requirements to the MISMO/ULDD data standards.

D. How would the HMDA data process be modernized?

As noted above, the Bureau is using this rulemaking as an opportunity to review, streamline, and modernize HMDA operations. The Bureau understands that many steps in the HMDA data collection, submission, and reporting process are burdensome for FIs, especially small FIs, and believes that the process can be modernized to streamline some of the areas FIs find particularly difficult.[30] As part of the operations modernization efforts, the Bureau is considering proposals that would reduce the annual, ongoing operational costs FIs currently incur in collecting and reporting HMDA data. To that end, the Bureau is consulting with other federal agencies about how to facilitate the following improvements to the HMDA process, which are likely to benefit small FIs:

- Restructuring the geocoding process and possibly shifting some of the burden to the government;
- Creating an improved web-based HMDA Data Entry Software (DES);
- Streamlining the submission and editing process to make it more efficient; and
- Expanding and integrating HMDA help sources.

Section IV of this Outline of Proposals Under Consideration reviews the possible impacts of these potential changes. Some of the changes the Bureau is considering proposing would require amendments to Regulation C, while others would not. The Bureau considers the process improvements to be part of its overall HMDA/Regulation C modernization effort and, thus, still requests information on potential impacts and recommendations.

1. Restructured Geocoding

Geocoding involves identifying the appropriate census tract, Metropolitan Statistical Area (MSA) or Metropolitan Division (MD), county, and state for the property associated with the reported loan. Regulation C currently requires this property location data to be reported on the LAR for most properties, using certain numerical codes.[31] FIs use a variety of methods for obtaining the location codes for the LAR records (geocoding), including proprietary systems and vendor software.

The FFIEC website provides a free geocoding tool for this purpose.[32] However, this tool only permits the entry of one address at a time and does not allow for "batch" geocoding (entering multiple addresses and receiving applicable codes for each address with one submission), which

[30] Recognition of technology improvements may also allow other streamlining changes in other requirements, such as in how FIs' disclosure statements are provided to the public.

[31] 12 CFR 1003.4(a)(9) and App. A.I.C.

[32] http://www.ffiec.gov/Geocode/default.aspx.

has been identified as a significant burden for some FIs. Further, the tool is not integrated with the free HMDA DES or with commercially available HMS, requiring the employee who uses the geocoding tool to manually input the information retrieved into DES for submission. In addition, for FIs that use a HMS, there discrepancies sometimes exist between the geocode used by the regulators and the HMS, requiring FIs to spend time reconciling the differences.

Financial institutions have told the Bureau that geocoding is a significant burden. FIs have also noted problems associated with geocoding difficult addresses, such as those associated with new subdivisions, or where census tracts may have changed.

The Bureau is considering whether it could shift some of the burden of geocoding from FIs to the government. For example, Regulation C could require FIs to report property addresses or latitude/longitude coordinates associated with the reported loans and applications — information that is not currently reported under HMDA — and geocoding could become an operation shared with or performed by the government. This effort is related to the Bureau's consideration of a new property identifier data point, which was added to HMDA by the Dodd-Frank Act (see Appendix A).

2. Improved DES

The FFIEC currently provides free downloadable HMDA DES for submitting HMDA data. However, the current software has some limitations. A new version of the software is developed each year, and must be downloaded for each year's HMDA submission. The software is not network-capable, and must be installed locally on individual hard drives. As a result, DES cannot be accessed by multiple users on different computer terminals, meaning that data must be entered at one location, and cannot be entered at different branch locations or by different departments. DES also does not currently integrate with vendor HMS.

The Bureau is considering proposing to develop a new DES that accommodates multiple users and network capability by making the tool web-based, so that it would not require updating by FIs. This would permit entering data from multiple locations and users, which would make the process more efficient for FIs. This also would also permit multiple users, and would not require new DES software to be downloaded when updates are made.

The Bureau is considering proposing to support integration by releasing an application programming interface (API), which would allow developers to integrate their HMS with government back-end HMDA systems. This would allow for direct submissions from HMS systems through the API, and provide a shared, coordinated workspace for entering, submitting, and validating HMDA data, while supporting customization and innovation by FIs and vendors.

3. Streamlined Submission and Editing

Currently, the HMDA data submission process involves pre- and post-submission quality, validity, and syntactical edits from the processor which note potential errors or inconsistencies in the data.[33] The government HMDA processor generates reports that identify possible reporting errors or quality edits. The HMDA reporting process for each FI with outstanding quality edit issues is not complete until all edits have been verified or resolved.

[33] *See, e.g.*, 2014 HMDA Edits, FFIEC, *available at* http://www.ffiec.gov/hmda/pdf/edit2014.pdf.

FIs have identified the edits process as time-consuming and inefficient. For example, FIs receive many predictable edits on specialized loans to which the edit is not relevant. The Bureau is considering how to make the edits process more efficient by refining the edits to correspond to the data reported, so that certain edit flags will align more closely with the loan types to which that edit flag is relevant. This proposal would require that loan types be easily identifiable in HMDA data. Additional improvements to the edits process that the Bureau is discussing with other federal agencies include preapproval of edits and integrating edits into the web-based DES, as well as having the edit process be part of the API so that vendor HMS can perform edit checks without requiring separate systems.

4. Integrated Help Sources

The Bureau is reviewing how it might facilitate improvements in the existing HMDA guidance and HMDA technical help process. Currently, in addition to Regulation C, FIs look to multiple sources for written guidance, including the "HMDA Getting it Right Guide," FAQs, a glossary of terms, and newsletters on the FFIEC website.[34] The Bureau understands that multiple sources of technical and interpretive guidance are difficult for FIs to work with, and may create opportunities for inconsistency. The Bureau is considering how to provide more centralized HMDA guidance.

E. What other federal rules are closely related to HMDA?

The Bureau has identified other federal rules that have potentially overlapping or conflicting requirements in order to avoid duplication or conflict with Regulation C revisions (see Appendix B). The Bureau has identified the following statutes and regulations as closely related to HMDA:

The **Community Reinvestment Act (CRA)**, implemented by Office of Comptroller of the Currency, Board, and Federal Deposit Insurance Corporation regulations requires some FIs to collect, maintain, and report certain data about small business, farm, and consumer lending to ensure they are serving their communities. HMDA data are frequently used in CRA exams as part of evaluating home mortgage lending under the CRA lending test, and many CRA definitions and concepts are aligned with HMDA. The Bureau intends to work with CRA regulatory agencies to ensure HMDA and CRA do not conflict and HMDA data can continue to be used as part of the CRA compliance process.

The **Equal Credit Opportunity Act (ECOA)**, implemented by the Bureau's Regulation B (12 CFR part 1002), prohibits creditors from discriminating in credit transactions and contains other requirements regarding, for example, notices, valuations, and maintaining certain information. Regulation B requires creditors to collect race, ethnicity, sex, marital status, and age of applicants for some home purchase loans and refinancings and maintain that information for 25 months for purposes of monitoring compliance with antidiscrimination laws. One of HMDA's purposes is to provide data that can be used to assist in enforcing antidiscrimination statutes, which includes ECOA.

[34] http://www.ffiec.gov/hmda/.

The **Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA)**, implemented by the Bureau's Regulation Z (12 CFR part 1026) and Regulation X (12 CFR part 1024), cover many aspects of mortgage market transactions, including disclosures and restrictions on certain types of transactions. The Bureau recently issued a final rule on Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (RESPA-TILA Integrated Disclosures rule).[35] The Bureau has considered the definitions, requirements, and purposes of TILA and RESPA as it has developed these proposals under consideration for the revision of Regulation C.

Proposed **Regulation AB II** (17 CFR part 229, subpart 229.1100) from the Securities and Exchange Commission (SEC) would require private issuers of asset-backed securities, including mortgage-backed securities, to disclose certain asset-level information. The proposed standard includes SEC-specific XML standards and data definitions.

IV. Potential Impacts on Small Entities

A. Overview

The CFPB has identified four categories of small entities that may be subject to the proposed rule for purposes of the Regulatory Flexibility Act (RFA). These are the categories of entities that may be required to comply with Regulation C's requirements to collect, report, and disclose HMDA data to the public. The categories and the SBA small entity thresholds for those categories are commercial banks, savings associations and credit unions with up to $500,000,000 in assets; and nondepository institutions engaged in real estate credit and consumer lending with up to $35,500,000 in annual revenue.

Approximately 6,000 banks, savings associations, and credit unions currently report HMDA data. Of these, about 4,400 have up to $500,000,000 in assets and are therefore small entities. Approximately 820 non-DIs currently report HMDA data. The Bureau estimates that approximately 790 of those non-DIs have annual revenue up to $35,500,000 and are therefore small entities.

As discussed above, HMDA data are the preeminent source of mortgage loan origination information for regulators, local governments, industry, researchers, and consumer advocates studying and analyzing trends in mortgage markets. The data facilitate the statistical analysis of mortgage lending within communities and to borrowers for a wide range of purposes, including the analysis of discriminatory lending practices. Further, as with other data collected and reported by government, few users of HMDA data could collect comparable information on their own, and the widespread availability of the data ensures that all interested parties can benefit from it.

The Dodd-Frank Act amended HMDA to require the collection and reporting of several new data points. The Dodd-Frank Act also authorizes the Bureau to mandate that FIs collect and report "such other information as the Bureau may require." The Bureau is considering requiring reporting of a limited number of additional data points that will ensure that the data continue to serve HMDA's purposes. In addition, because the Dodd-Frank Act changes to HMDA will

[35] 78 FR 79730 (Dec. 31 , 2013).

require that FIs modify their data collection and reporting practices and systems, the Bureau seeks to use this opportunity, as appropriate, to modernize and streamline the manner in which FIs collect and report data and to reduce unnecessary burden on financial institutions.

This section of the Outline of Proposals Under Consideration summarizes both the Bureau's preliminary assessments of the potential impacts of the regulatory and operational proposals under consideration on small entities and the methods used to derive the assessments. The Bureau believes that this information will make it easier for SERs and others to offer the Bureau additional data and information regarding potential impacts.

The information in this section may also help provide context for a discussion on how HMDA compliance and reporting requirements can be improved for small entities, while still achieving the disclosure and other purposes of the statute. The Bureau encourages contributions of data and other factual information that will help it to better understand the potential compliance burdens of small entities and develop a proposed rule that achieves appropriate goals, including those discussed above in this Outline of Proposals Under Consideration.

B. Internal Review of HMDA Compliance Processes and Costs

In conjunction with the development of these proposals under consideration, the Bureau reviewed the current HMDA compliance systems and activities of FIs. The review used a cost-accounting case-study methodology.[36] The review was conducted, in part, through interviews with 20 FIs of various sizes, 9 vendors, and 15 governmental agency representatives. This review provided the Bureau with information about current HMDA compliance processes and costs. The review has also provided the Bureau with tools for analyzing the impacts of the proposals under consideration discussed in this outline.[37]

As an initial matter, the Bureau recognizes that FIs differ in the cost per loan application of complying with the current requirements of HMDA. The Bureau sought, as part of its review, to understand the sources of these differences in the current (or "baseline") compliance costs per loan application. This review also improved the Bureau's ability to assess the overall impact of the proposals under consideration and to consider the impact on small FIs. This analysis is summarized below.

Second, based on the interviews with FIs, vendors, and governmental agency representatives, the Bureau classified the operational activities associated with current HMDA data collection and reporting into discrete compliance "tasks." The level of detail of the classification is intended to facilitate the rigorous analysis of impacts of the proposals under consideration across a wide range of FIs. This analysis is summarized below.

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[36] For a discussion of this methodology in the analysis of the costs of regulatory compliance, see Gregory Elliehausen, *The Cost of Bank Regulation: A Review of the Evidence (*Board of Governors of the Federal Reserve System, Working paper series 171 (1998)).

[37] The FIs interviewed were selected to provide variation in key characteristics like institution type (bank, credit union, independent mortgage bank), regulator, record count, submission mechanism, number of resubmissions, and other designations like multifamily lender or rural. The selection was not random, however, so the Bureau interprets the findings cautiously. The Bureau expects to learn more about the general applicability of these findings through the SBREFA process and additional research.

Third, the Bureau sought to identify efficient elements and areas of difficulty in the current HMDA compliance process. Some FIs noted that HMDA rules have been mostly stable over time and this has allowed FIs to develop efficient systems and controls to effectively meet regulatory requirements. However, interviewees also identified certain challenges to compliance. These difficulties include meeting the FFIEC's accuracy requirements for geocoding; delayed or inconsistent responses from HMDA help support systems; and variations in definitions, interpretations of definitions, and data standards related to HMDA compliance. Some of the Bureau's proposals under consideration specifically address these challenges.

C. Types of HMDA Reporters

1. Background

During interviews with FIs, the Bureau identified seven key aspects or dimensions of compliance operations that were significant drivers of ongoing compliance costs (see the first column of Table 1 below). These seven dimensions are: the reporting system used; the degree of system integration; the degree of system automation; the tools for geocoding, for performing completeness checks, and for performing edits; and the compliance program.

Further, the Bureau found that a given financial institution would tend to have simpler or more complex compliance operations across all seven dimensions. That is to say, generally, if a given financial institution had less system integration, then it would tend to also use less automation, use simpler tools for geocoding, etc. It was generally not the case that a financial institution would use less complex approaches on one dimension and more complex approaches on another. This allowed the Bureau to classify FIs into three broad tiers according to the overall level of complexity of their compliance operations.[38]

Table 1 below summarizes the characteristics of the three tiers of FIs. Tier 1 FIs have the highest level of complexity in compliance operations, while Tier 2 FIs and Tier 3 FIs have the middle level or lowest level of complexity in compliance operations, respectively:[39]

[38] The Bureau found that the cost of HMDA compliance (per loan application) depended on the overall complexity of the compliance operations and LAR size. However, the Bureau also found that the LAR size was largely correlated with overall complexity, and so the complexity of compliance operations offers a useful framework for understanding the cost of HMDA compliance.

[39] The correlation in complexity across the seven dimensions was not perfect. For example, if an institution was complex in most areas but manually geocoded 10,000 loans, it might be categorized as Tier 2 rather than Tier 1.

Table 1:
Types of HMDA Reporters

	Tier 3 FIs tend to…	**Tier 2 FIs tend to…**	**Tier 1 FIs tend to…**
Systems	Store data in EXCEL and use DES	Use LOS and HMS	Use multiple LOS, central SoR, HMS, DES
Integration	(None)	Have forward integration (LOS to HMS)	Have backward and forward integration
Automation	Type data into DES	Use manual edit checks	Have high automation (only verifying edits manually)
Geocoding	Use FFIEC tool (manual)	Use batch processing	Use batch processing with multiple sources
Completeness checks	Check in DES only	Use LOS, which includes completeness checks	Use multiple stages of checks
Edits	Use FFIEC edits only	Use FFIEC and customized edits	Use FFIEC and customized edits run multiple times
Compliance program	Have a joint compliance and audit office	Have basic internal and external accuracy audit	Have in-depth accuracy and fair lending audit

Notes: DES is "Data Entry Software"; LOS is "Loan Origination System"; HMS is "HMDA Management Software"; SoR is "System of Record"

2. "Small Entity" HMDA Reporters

As discussed above, the Bureau interviewed 20 FIs as part of its review of current HMDA compliance systems and tasks. Nine of the 20 FIs interviewed are "small" depository institutions under the SBA small business size standards effective since July 22, 2013. Of these nine, the Bureau characterizes five as Tier 3 FIs and four as Tier 2.[40]

Through the SBREFA process and additional outside research, the Bureau seeks to obtain data on the compliance operations and costs of small entities and on the relative numbers of Tier 3 and Tier 2 (and Tier 1, to the extent applicable) small entities. Further, as discussed above, the Bureau expects that SERs who review their own systems and operations as part of the SBREFA

[40] Two of the 20 FIs were non-DIs, but the Bureau did not obtain the revenue information that would determine whether they were small non-DIs under the SBA small business size standards.

process would find Table 1 generally useful for organizing this review and identifying the Tier to which each of their institutions belong.

D. Compliance Tasks and Baseline Compliance Costs

1. Compliance Tasks

Using information obtained from the review of current HMDA compliance systems and processes, the Bureau classified the operational activities associated with ongoing HMDA data collection and reporting into discrete compliance "tasks." The classification of compliance activities consists of 18 "component tasks" which can be grouped into 4 "primary tasks:"

1. *Data Collection*
    - Transcribing data, resolving reportability questions, and transferring data to HMS
2. *Reporting and Resubmission*
    - Geocoding, standard annual edit and internal checks, researching questions, resolving question responses, checking post-submission edits, filing post-submission documents, creating public LAR, distributing public LAR, distributing disclosure report, FI uses vendor HMS software[41]
3. *Compliance and Internal Audits*
    - Training, internal audits, and external audits
4. *HMDA-related Exams*
    - Exam preparation and Exam assistance

These 4 primary tasks and their 18 component tasks are also listed in subsequent tables in this Section of the Outline of Proposals Under Consideration.

2. Baseline Compliance Costs

Table 2 lists the primary tasks and component tasks. The table also provides a formula that indicates how to go about potentially calculating the cost of each component task for a representative FI in Tier 3 (the calculation for FIs in other Tiers would be similar). This information can then be used to calculate, for a representative FI in Tier 3, the baseline compliance costs for each task (or for all tasks) per loan application (or for all loan applications).[42]

In subsequent sections and tables, the Bureau indicates how it expects these baseline compliance costs would be affected by the various changes in Regulation C that are discussed in the Outline of Proposals Under Consideration.

[41] Whether or not an FI uses vendor HMS software is not a task per se. This item is included separately in order to distinguish the DES system from other HMS systems that FIs may purchase from vendors.

[42] "Applications" should be understood to refer to items covered by Regulation C, which includes loans and non-originated applications plus loans purchased without an application. Certain table headings below refer to "applications and loans" for clarity.

Table 2:
Compliance Tasks and Baseline Compliance Costs

Primary Task	Component Tasks	Baseline Compliance Costs at a Tier 3 FI	Fixed or Variable Cost
Data Collection	Transcribing data	(hourly wage) x (hours spent transcribing data per application) x (number of applications)	Variable
	Resolving reportability questions	(hourly wage) x (hours spent resovling reportability questions per application) x (number of applications with reportability questions)	Variable
	Transfer data to HMS	(hourly wage) x (hours spent transferring data to HMS per application) x (number of applications)	Variable
Reporting and Resubmission	Complete geocoding data	(hourly wage) x (hours spent geocoding per application) x (number of applications)	Variable
	Standard annual edit and internal check	(hourly wage) x (hours spent on edits and checks)	Fixed
	Researching questions	(hourly wage) x (hours spent researching questions per application) x (number of applications with questions)	Variable
	Resolving question responses	(hourly wage) x (hours resolving question responses per application) x (number of applications with contrary answers to questions)	Variable
	Checking post-submission edits	(hourly wage) x (hours spent checking post-submission edits per application)	Variable
	Filing post-submission documents	(hourly wage) x (hours spent filing post-submission documents)	Fixed
	Creating public LAR	(hourly wage) x (hours spent creating public LAR)	Fixed
	Distributing public LAR	(hourly wage) x (hours spent distributing public LAR) x (number of public LAR requests)	Fixed
	Distributing disclosure report	(hourly wage) x (hours spent distributing disclosure report) x (number of disclosure report requests)	Fixed
	FI uses vendor HMS software	Interviews indicated Tier 3 FIs use free DES instead of vendor HMS	Fixed
Audits	Training	(hourly wage) x (number of loan officers and processors) x (hours of training received by each)	Fixed
	Internal audit	Interviews indicated Tier 3 FIs have no internal audit department	Fixed
	External audit	Cost based on representative average of information gathered during interviews	Fixed
Exams	Exam prep	(hourly wage) x (hours spent preparing for exam)	Fixed
	Exam assistance	(hourly wage) x (hours spent assisting during exams)	Fixed

Table 2 shows that for many component tasks, an hourly wage is one factor in computing the baseline compliance cost. The analysis below uses the national, average hourly wage for compliance officers from the Bureau of Labor Statistics. The other factor in computing baseline compliance costs is time. For example, for resolving reportability questions, the Bureau's interviews with FIs indicated that approximately 10 percent of applications have reportability questions and it takes approximately 1 hour to resolve each question. The number of hours spent resolving reportability questions is then constructed based on the number of applications received. As a second example, for geocoding, the Bureau's interviews indicated that problems arise for 5 percent of applications and that geocoding takes approximately 0.50 hours for problem applications and approximately 0.05 hours when no problems arise. Hours spent geocoding is then constructed based on the number of applications received. As a final example, for training, the Bureau's interviews indicated that each loan officer receives approximately 2 hours of training per year and that each Tier 3 FI has approximately 5 loan officers on staff.

To further clarify the nature of the component tasks, Table 2 further identifies each component task as imposing either a variable cost or a fixed cost type of ongoing cost. Following standard terminology, variable costs are defined as costs that increase directly with the number of applications reported.[43] The variable cost component tasks are: transcribing data, resolving reportability questions, transferring data to HMS, geocoding, researching questions, resolving question responses, and checking post-submission edits. In contrast, fixed costs are any costs that are independent of the number of applications reported; they are costs "per financial institution." These costs are typically lump-sum payments, often made to outside parties, that are paid regardless of the number of applications received. The eleven component tasks that are not variable cost tasks are fixed cost tasks.

E. Impacts of the Proposals Under Consideration

1. One-time Costs

All of the proposals under consideration would impose some one-time costs on small entity HMDA reporters. Management, legal, and compliance personnel will likely take time to learn new reporting requirements and assess legal and compliance risks. FIs that use vendors for HMDA compliance will incur one-time costs associated with software installation, troubleshooting, and testing. The Bureau is aware that these activities will take time and that the costs may be sensitive to the time available for them. FIs that maintain their own reporting systems will incur one-time costs to develop, prepare, and implement necessary modifications to those systems. In all cases, FIs will need to update training materials to reflect new requirements and activities and may have certain one-time costs for providing initial training to current employees. However, these one-time costs are likely to be relatively small for Tier 2 and especially Tier 3 small entities. These entities use less complex reporting processes, so tasks are more manual and new requirements may involve greater use of established processes. As a result, compliance would likely require straightforward changes in systems and workplace practices and therefore impose relatively low one-time costs. The Bureau expects to obtain more information about these one-time costs through this SBREFA process.[44]

Changes in HMDA coverage would result in certain FIs no longer reporting or being newly obligated to report. For example, the Bureau is considering proposing to set a minimum reporting threshold of 25 home purchase and refinance loans. The minimum reporting threshold requirement would no longer require reporting by depository institutions (DIs) that meet the asset threshold and currently report 25 or fewer loans; but it would obligate reporting by certain non-DIs that currently do not report despite making more than 25 (but fewer than 100) loans.

Approximately 4,400 DIs are small entities and are currently required to report HMDA data. Of these, 1,630 would no longer report HMDA data under this proposal under consideration. The

[43] Note that variable cost (per loan application) can depend on other factors, including the number of data points that must be reported.

[44] The changes to HMDA being considered may also induce some financial institutions to incur one-time expenses that go beyond direct impacts. For example, some HMDA reporters may decide to incur one-time expenses in order to move from Tier 3 to Tier 2, as described in Table 1 above, in order to achieve lower ongoing costs (fixed or variable). These one-time expenses might be incurred for introducing LOS and HMS that are forward integrated and include batch geocoding, introducing automated and customized data edits and checks, or adopting some of the other systems and processes of financial institutions in a higher Tier.

results are more tentative for non-DIs that would begin reporting. The Bureau estimates that approximately 790 non-DIs are small entities and currently report HMDA data, and that 350 small entity non-DIs would begin reporting HMDA data under this proposal under consideration.[45]

For small entities that would no longer be required to report as a result of a proposal under consideration, the Bureau does not expect any significant one-time cost. Ongoing costs would cease. Institutions that would be obligated to report for the first time, in contrast, would incur both the one-time costs of beginning HMDA reporting and the ongoing costs associated with all 18 tasks. The Bureau is currently engaged in outreach regarding the costs of initiating HMDA reporting and will be studying the issue further.

2. Changes in Ongoing Costs

This section discusses and illustrates the changes in HMDA compliance activities that are conducted on an ongoing basis as loans are made by the creditor. The analysis also presents a preliminary assessment of the associated changes in ongoing costs. The changes in ongoing costs to small entities from the proposals under consideration are the costs that result from the changes in the ongoing activities of small entities.[46]

In general, the impact of a proposed change on a variable cost task depends on how the proposed change affects the time to conduct the task, the type of employees who will conduct the task, and the hourly wage for those employees. The impact of a proposed change on a fixed cost task depends on whether the task must be performed more intensively (or less intensively) as a result of the proposal and whether these changes use (or add to) unused capacity or require additional capacity.

The proposals under consideration that affect ongoing tasks can be assigned to one of five groups: changes in coverage; changes in data standards or data points; changes in data collection and submission; changes in help sources; and changes in data disclosures by FIs. It is useful to note at the outset that most proposals affect only a few of the 18 tasks. Where a proposal affects multiple tasks, the overall impact of the proposal depends on the net impact of all affected tasks.

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[45] The Bureau estimates that 1,630 small DIs report fewer than 25 first-lien residential mortgage loans for owner-occupied, 1- to 4-family homes. This is currently the most reliable estimate of the number of small DIs that would no longer report HMDA data under the change in coverage that is under consideration. Similarly, the Bureau estimates that 350 small non-DIs make 25 or more, but fewer than 100, first-lien residential mortgage loans for owner-occupied, 1- to 4-family homes. This is currently the most reliable estimate of the number of small non-DIs that would begin reporting HMDA data under the change in coverage that is under consideration. These estimates are approximations and do not take into account all of the factors that may produce changes in the number of FIs reporting HMDA data. For example, certain non-DIs with assets above $10 million that make fewer than 25 loans and currently report HMDA data would no longer be required to report HMDA data. The Bureau is continuing to refine its estimates of the effects on HMDA reporting of any such change in coverage.

[46] It is important to note that the information presented here comes from a limited number of FIs that currently report to HMDA. Thus, this information is not necessarily representative for FIs or small entity FIs overall. Through the SBREFA process and other research, the Bureau hopes to use this information to elicit information from SERs and others on the quantity and cost of the resources used in HMDA compliance.

The discussion of each group of proposals under consideration includes a table that summarizes the Bureau's current understanding of the size and direction of the impact of each proposal. Specifically, the tables indicate the size and direction of the impact of each proposal on each task for small entities in Tier 3 and Tier 2. The last row indicates the size and direction of the overall net impact of a proposal on entities in each tier. The discussion also presents an example of how to compute the impact of a particular proposal on a particular task and offers general guidance on how to compute the impact on ongoing costs. The example provided highlights one of the largest impacts for the specific proposal being discussed.

The discussion focuses on small entities in Tier 3. There are only a few qualitative differences in impacts across Tier 3 and Tier 2 entities. No proposal would increase the cost of a particular task for entities in one tier and decrease the cost of the same task for entities in the other tier. If a proposal affects the way entities in both tiers perform a task, the proposal could result in different levels of increase or decrease in costs depending on the tier, but there would be no instances in which the proposal would have the opposite impact on the cost of the task. However, where a given proposal would produce cost increases and cost decreases for different tasks, the overall impact may be different for Tier 3 and Tier 2 entities. The Bureau's preliminary assessment of impacts indicates that the tiers show the opposite net impact for just one of the proposals under consideration (*see* Table 4 below).[47]

The summary tables all have the same format. Each row presents one of the 18 specific tasks that FIs perform in gathering and reporting HMDA data. Each main column presents a particular proposal under consideration; the two sub-columns under each column separately present the Bureau's current assessment of the likely impact on Tier 3 and Tier 2 entities.[48] The color of each cell and symbols indicate the likely size and direction of the impact of a particular proposal under consideration on the cost of a particular task, per loan application. Cells are colored or filled as follows:

- Red indicates that the proposal would likely increase the ongoing cost of the task. Further:
    - "+" indicates the increase would likely be less than 50 cents per application.
    - "++" indicates the increase would likely be at least 50 cents but less than $5 per application.
    - "+++" indicates the increase would likely be at least $5 per application.
- Green indicates that the proposal would likely decrease the ongoing cost of the task. Further:
    - "-" indicates the decrease would likely be less than 50 cents per application.

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[47] The most common difference across tiers occurs when a proposal would affect the way entities in only one of the tiers performs a task. For example, a proposal may implicate a particular technology used by the entities in one of the tiers but not the other. In this case, the proposal may have an impact on certain tasks for entities in one tier but zero impact on the same tasks for entities in the other tier. Even this difference is relatively uncommon.

[48] The impact of a proposal is the Bureau's current understanding of what would likely occur as a result of the proposal. Potential impacts are projections based on the limited information described above and should be interpreted cautiously.

- "--" indicates the decrease would likely be at least 50 cents but less than $5 per application.
- "---" indicates the decrease would likely be at least $5 per application.

- White indicates that the proposal may change the ongoing cost of other tasks, but the proposal does not implicate the particular task and therefore cannot change the cost of the task.

Finally, the red/green shading and symbols in the last row of each table indicate the likely overall size and direction of the impact of a proposal under consideration on the ongoing cost for a reporting institution in the indicated Tier, per application.

Based on the information gathered from approximately 20 FIs of various sizes as described in Section IV.B above, the Bureau has been able to develop very rough estimates of average costs per application of HMDA compliance under the existing requirements and for the proposals under consideration for those institutions as a group. In part because these institutions were not drawn from a random sample, these estimates cannot be easily generalized to FIs as a whole, and additional investigation may cause these estimates to increase or decrease. Nevertheless, these estimates provide some sense of scale particularly when compared to the overall costs of mortgage origination. Based on the information gathered to date, the Bureau has estimated that the combined impact of the proposals under consideration would increase the cost of compliance with HMDA by roughly $25 per application for the Tier 3 institutions and roughly $5 per application for the Tier 2 institutions. This is compared with an estimated baseline cost per application under existing HMDA of roughly $45 per application for the Tier 3 institutions interviewed, and roughly $30 per application for the Tier 2 institutions. Note that these figures are small compared to the overall cost of originating a mortgage loan. These costs are approximately $7,000 for smaller independent mortgage banks and $4,400 for smaller DIs.[49]

[49] Mortgage Bankers Association, *Mortgage Company Financial and Operational Performance*, November 2013, at 21.

Changes Under Consideration in Coverage

Table 3:
Projected Impact on Ongoing Costs from Changes Under Consideration in Coverage

		Report all dwelling-secured applications and loans (adds HELOCs, closed-end HELs, reverse mortgages)		Report all dwelling-secured applications and loans (excludes unsecured home improvement loans)	
		Tier 3	Tier 2	Tier 3	Tier 2
Data Collection	Transcribing data	++	+	-	-
	Resolving reportability questions	+	+	-	-
	Transfer data to HMS	++		-	
Reporting and Resubmission	Complete geocoding data	+	+	-	-
	Standard annual edit and internal check				
	Researching questions	+	+	-	-
	Resolving question responses				
	Checking post-submission edits				
	Filing post-submission documents				
	Creating public LAR				
	Distributing public LAR				
	Distributing disclosure report				
	FI uses vendor HMS software				
Audits	Training				
	Internal audit				
	External audit				
Exams	Exam prep				
	Exam assistance				
Overall	Estimated Quantitative Net Impact	++	+	- -	-

Table 3 presents the projected impacts on ongoing costs of the proposals under consideration for changes in coverage.[50]

[50] Proposals that would only exempt or newly obligate reporting by certain financial institutions would impose only one-time costs and are not presented. Further, the options to maintain certain existing requirements within each category of proposals are not presented.

The columns “Report all dwelling-secured applications…” present the projected impacts of a particular proposal. One proposal under consideration would change reporting on applications (and loans, as explained above) to make reporting of HELOCs mandatory, rather than optional; require reporting of all HELs, not just those to be used for home purchase, refinancing, or home improvement; and require reporting of all reverse mortgages. This change would have no impact on many operational tasks, such as standard annual edits/checks, resolving question responses and creating the public LAR. That result would occur because the proposed change would not involve those tasks.

Under this proposal under consideration, FIs would incur the additional transcription costs associated with having to start reporting applications and loans for additional HELOCs, HELs and reverse mortgages.[51] The red shading indicates that there would likely be an increase in the ongoing cost of transcribing data and transferring additional data to HMS. All other implicated tasks would be likely to produce much smaller cost increases.[52]

To assess the impact of this proposal on the transcription task, one would need the expected number of additional HELOC, HEL, and reverse mortgage applications; the number of minutes it takes to transcribe data for one application; and the hourly wage of the staff member transcribing the data. For each product, one would multiply these three values together, divide by 60, and then sum up the results.

Overall, this proposal on reporting of HELOCs, HELs and reverse mortgages would likely increase costs for five operational tasks and would not mitigate costs for any operational task. Therefore, the overall impact would likely increase costs as indicated on the last row of the table.

[51] Note that, in this calculation and others below, both the task-level calculations and the calculation of overall net impact assume some stability in the task structure and the costs of factors that determine impact. If a proposal causes a major change in the processes that underlie HMDA compliance, tasks may be combined or become less relevant and the overall impact from proposals that affect multiple tasks may change.

[52] For Tier 2 institutions, there is no impact on the “Transfer data to HMS” task because of existing integration of HMS.

Changes Under Consideration in Data Standards or Data Points

Table 4:
Projected Impact on Ongoing Costs from Changes Under Consideration in Data Standards or Data Points

		Align current HMDA data points with MISMO or MISMO-ULDD		Add DFA-identified data points and align with MISMO, MISMO-ULDD, definition from other regulation, or new definition		Add additional data points beyond DFA - identified data points and align with MISMO, MISMO-ULDD, definition from other regulation, or new definition	
		Tier 3	Tier 2	Tier 3	Tier 2	Tier 3	Tier 2
Data Collection	Transcribing data	++		+++		++	
	Resolving reportability questions						
	Transfer data to HMS	++		+++		++	
Reporting and Resubmission	Complete geocoding data						
	Standard annual edit and internal check	++	++	+++	+++	++	++
	Researching questions	- -	-	++	+	+	+
	Resolving question responses						
	Checking post-submission edits			+	+	+	+
	Filing post-submission documents						
	Creating public LAR						
	Distributing public LAR						
	Distributing disclosure report						
	FI uses vendor HMS software						
Audits	Training	- -	- -	+	+	+	+
	Internal audit		+		+		+
	External audit	++		+++		++	
Exams	Exam prep						
	Exam assistance	+	+	++	+	+	+
Overall	Estimated Quantitative Net Impact	++	-	+++	+++	+++	++

Table 4 presents the potential impacts 0f revising the current HMDA data points or data standards (or both). These impacts come from proposals under consideration to: align current HMDA data points with MISMO or MISMO-ULDD; collect the 13 data points specified in the Dodd-Frank Act according to a particular standard; and collect 7 other data points (to ensure that the data continue to serve the purposes of HMDA) according to a particular standard.

As one example of the projected impacts, consider the proposed change to align current HMDA data points with MISMO or MISMO-ULDD. Notice that this proposed change would have no projected impact on many operational tasks, such as geocoding data, resolving question responses and creating the public LAR. The proposed change would not involve those tasks so there would be no impact. The costs of researching questions and the costs of training would likely be reduced. This is indicated by the green shading. However, the proposal may create additional costs for transcribing data, transferring data to HMS, edit checks, external audit and exam assistance. These likely additional costs are due entirely to the fact that aligning current HMDA data points with MISMO may add three additional data points to HMDA. Multiple MISMO data points may be required to convey the same information as one current HMDA data point in some instances.

Since the proposal would likely increase the costs of certain tasks and decrease the costs of other tasks, the overall impact would likely depend on the relative magnitudes of these effects. The Bureau's preliminary assessment of the overall impact is that, for Tier 3 small entities, costs would likely increase by a small amount. This impact is indicated in red on the last row of the table. If not for the three additional data points that arise in aligning current HMDA data points with MISMO, the proposal would likely reduce the costs of all tasks implicated.[53]

In contrast, the Bureau finds that for Tier 2 small entities, costs would be likely to decrease. The reason is that, while the proposal is projected to increase the cost of annual edit and internal checks as well as exam assistance for both types of small entities, it would increase this cost for Tier 2 small entities by a lesser amount. As a result, the cost mitigating factors would likely more than offset the cost increasing factors for Tier 2 small entities. The overall result is indicated in green on the last row of the table.

The other two proposals would increase the costs of all the tasks they implicate. They also implicate checking post-submission edits. They therefore would be likely to produce an overall increase in ongoing compliance costs.

To assess the impact on training costs of the proposed change to align current HMDA data with MISMO, one would need to know the current, annual HMDA-related training costs and an estimate of how these training costs would change with a switch to a MISMO reporting standard. One would expect this proposed change to reduce costs, because more standardized data point definitions would reduce training costs. Multiplying current training costs by an estimate of the percentage reduction in costs would yield the impact of the proposal on this task. As noted above, switching to a MISMO reporting standard would increase the current number of data points collected by three. The mitigation in training costs would therefore be tempered slightly by a small increase in training costs associated with the three additional data points that would need to be added.

As a further illustration, consider the proposed change under consideration to require FIs to report data for all DFA-identified data points. Notice that this change would have no projected impact on many operational tasks, such as resolving reportability questions, geocoding, and creating the public LAR. That result would occur because the proposed change would not

[53] The analysis presents the impact of aligning current HMDA data points with MISMO in order to clarify the cost mitigating effects that this change would have. These effects are present, but are not as transparent, in proposals that would also add DFA-identified data points or additional data points. The finding that costs overall may increase depends on the assumptions made to quantify the impacts of all of the implicated tasks. Further, this finding assumes that all other HMDA reporting requirements remain unchanged. This might not be true if aligning current HMDA data points with MISMO were the only proposal under consideration.

involve those tasks. External audit costs for Tier 3 entities, on the other hand, would likely increase as indicated by the red shading.

To assess the impact of this proposed change on external audit costs, one might first estimate the percentage increase in total external audit costs from adding an additional data point. One would then multiply this number by the number of additional data points to determine the percentage increase in external audit costs. One might then multiply this product by current external audit costs to determine the dollar amount by which external audit costs would increase. The expected change in audit costs may differ across the four possible types of new data points being considered (MISMO, MISMO-ULDD, a current regulation, and a completely new variable), and across the specific data points being added.[54]

Overall, for Tier 3 FIs, this proposal would likely increase costs for eight operational tasks and would not mitigate costs for any operational task. Therefore, the overall impact would likely be an increase in costs as indicated on the last row of the table.

[54] Alternatively, one might first estimate the percentage increase in external audit costs per data point from adding an additional data point and modify the calculations accordingly.

Changes Under Consideration in Data Collection and Submission

Table 5:
Projected Impact on Ongoing Costs from Changes Under Consideration to Data Collection and Submission

		Processor conducts or facilitates geocoding		Web-based DES		Edits tailored to loan type		Pre-approval of most edits		Post-submission report part of web-based program/API	
		Tier 3	Tier 2	Tier 3	Tier 2	Tier 3	Tier 2	Tier 3	Tier 2	Tier 3	Tier 2
Data Collection	Transcribing data										
	Resolving reportability questions										
	Transfer data to HMS										
Reporting and Resubmission	Complete geocoding data	- -	- -								
	Standard annual edit and internal check			-		- -	- -	- -	- -		
	Researching questions										
	Resolving question responses										
	Checking post-submission edits					-	-	- -	-	-	-
	Filing post-submission documents									+	
	Creating public LAR										
	Distributing public LAR										
	Distributing disclosure report										
	FI uses vendor HMS software										
Audits	Training										
	Internal audit										
	External audit										
Exams	Exam prep										
	Exam assistance										
Overall	Estimated Quantitative Net Impact	- -	- -	-		- -	- -	- -	- -	-	-

Table 5 presents the projected impacts 0f proposed changes under consideration in data collection and submission.

As one example of projected impacts, consider the proposal under consideration to allow pre-approval of most edits. Notice that this proposed change would have no projected impact on many operational tasks, such as transcribing data, transferring data to HMS and geocoding. The proposed change would not involve those tasks so there would be no impact. Standard annual checking and editing costs, on the other hand, likely would be reduced as indicated by the green shading.

To assess the projected impact of this proposed change on the costs of standard annual checking and editing, one would need hours spent checking data annually, an estimate of the change in checking time due to the proposed change, and the hourly wage of the staff member conducting the checks. One could calculate the impact of this proposed change on checking and editing costs by multiplying together these three values. One would expect this to reduce costs, because FIs would have to spend less time checking data edits that have been pre-approved.

Overall, this proposal would likely mitigate costs for two operational tasks and would not be likely to increase costs for any operational task. Therefore, the overall impact would be to mitigate costs as indicated on the last row of the table.

Changes Under Consideration in Help Sources

Table 6:
Projected Impact on Ongoing Costs from
Changes Under Consideration in Help Sources

		Single POC for all three sources (processor, rule-maker, regulator)		Periodic integrated written guidance		Multiple access points (email, phone, web-chat)	
		Tier 3	Tier 2	Tier 3	Tier 2	Tier 3	Tier 2
Data Collection	Transcribing data						
	Resolving reportability questions			-	-	-	-
	Transfer data to HMS						
Reporting and Resubmission	Complete geocoding data						
	Standard annual edit and internal check						
	Researching questions			-	-	-	-
	Resolving question responses	- -	-				
	Checking post-submission edits						
	Filing post-submission documents						
	Creating public LAR						
	Distributing public LAR						
	Distributing disclosure report						
	FI uses vendor HMS software						
Audits	Training						
	Internal audit						
	External audit						
Exams	Exam prep						
	Exam assistance						
Overall	Estimated Quantitative Net Impact	- -	-	-	-	-	-

Table 6 presents the projected impacts 0f changes under consideration in help sources.

As one example of the projected impacts, consider the proposal under consideration to create a single POC for all three help sources (processor, rule-maker and regulators). Notice that this change would have no projected impact on many operational tasks, such as transcribing data, transferring data to HMS and geocoding. That result would occur because the proposed change would not involve those tasks. Resolving question responses, on the other hand, would be reduced as indicated by the green shading.

To assess the impact of this proposed change on the costs of resolving question responses, one would need hours spent aligning information from different help sources and the hourly wage of the staff member involved. One could calculate the impact of this proposed change on costs of resolving question responses by multiplying together these two values. One would expect this proposed change to reduce costs, because FIs would be less likely to receive responses that required alignment.

Overall, this proposal would likely mitigate costs for one operational task and would not increase costs for any operational task. Therefore, the overall impact would likely be to mitigate costs as indicated on the last row of the table.

Changes Under Consideration in Data Disclosure by FIs

Table 7:
Projected Impact on Ongoing Costs from
Changes Under Consideration in Data Disclosures by FIs

		Disclosure report provided by website link	
		Tier 3	Tier 2
Data Collection	Transcribing data		
	Resolving reportability questions		
	Transfer data to HMS		
Reporting and Resubmission	Complete geocoding data		
	Standard annual edit and internal check		
	Researching questions		
	Resolving question responses		
	Checking post-submission edits		
	Filing post-submission documents		
	Creating public LAR		
	Distributing public LAR		
	Distributing disclosure report		-
	FI uses vendor HMS software		
Audits	Training		
	Internal audit		
	External audit		
Exams	Exam prep		
	Exam assistance		
Overall	Estimated Quantitative Net Impact		-

Table 7 presents the projected impacts 0f proposals under consideration to change data disclosures by FIs. The Bureau's current understanding is that Tier 3 entities normally do not receive requests for disclosure reports from the public. Thus, this proposal is not expected to have any impact on these FIs and all of the cells in the Tier 3 column are white. In contrast, Tier 2 entities do receive some such requests. The proposal under consideration is expected to mitigate costs associated with those tasks for Tier 2 entities as indicated on the last row of the table.

V. Cost of Credit Analysis

The Bureau recognizes that HMDA reporters may incur one-time costs and increases in ongoing costs due to the proposals under consideration. However, the Bureau currently does not believe that these proposals will increase the cost of credit to small entities. The reasons are two-fold: the impact on the cost of a mortgage loan in general is likely to be small, and the Bureau does not currently believe that many small entities rely on consumer mortgage loans as a source of credit.

Regarding one-time costs (and also ongoing costs that do not increase with the number of loans), these are not likely to be passed through to borrowers as long as lenders are pricing their loans to maximize profits prior to incurring these one-time costs. One-time costs do not change the incremental profitability of any loan, so raising prices could only deter the origination of profitable loans. This is a standard principle of microeconomics.

- The Bureau is aware of anecdotal evidence that lenders may not be maximizing profits prior to incurring these one-time costs, in which case some portion of these costs may be passed through to borrowers. The Bureau expects to learn more about this through the SBREFA process.
- Further, it is theoretically possible that some lenders may exit the mortgage market solely due to these proposals and the remaining lenders may acquire some market power. The Bureau is not aware of evidence supporting this and currently does not believe it will occur.

Regarding variable costs, while these may be passed through to borrowers, the Bureau's preliminary assessment of potential impacts suggests that these are likely to be small. As discussed above, the combined impact of the proposals under consideration would likely increase the cost of compliance with HMDA by $25 per application for a Tier 3 FI and $5 per application for a Tier 2 FI. This expense will be amortized over the life of the loan and represents a negligible increase in the cost of a mortgage loan.

Finally, while the Bureau is aware that some small entities may rely on consumer mortgage loans as source of credit, the Bureau does not believe that this is common. According to the 2010 Survey of Consumer Finance, 15-20 percent of respondents used credit (such as credit cards, personal loans or business loans) to fund start-up or operational costs of a small business. However, the survey does not provide information on to what extent these loans involve HELOCs or closed-end HELs. Therefore, the Bureau estimates that no more than 15-20 percent of small entities would experience the estimated costs noted above.

Appendix A: Additional Background -- Data Points, "Application," and Privacy

This appendix provides a more in-depth description of the data point proposals the Bureau is considering, discussed briefly above in Sections III and IV, as well as information on some of the alternatives considered, the definition of "application," and privacy considerations. The Bureau invites information and feedback on all of these topics.

A. New and Revised Data Points

As part of the HMDA rulemaking, the Bureau is comprehensively reviewing all current data points in Regulation C, carefully examining each Dodd-Frank Act required data point, and proposing additional data points, as necessary, to fulfill HMDA's purposes. A table of the data points is included in Section III of this Outline of Proposals Under Consideration.

1. Unique Identifiers

The Dodd-Frank Act specified several new data points (as the Bureau may determine to be appropriate) related to unique identifiers for persons, properties, and transactions. The Bureau is considering the Dodd-Frank Act data points and other requirements relating to unique identifiers for entities and certain individuals involved in a mortgage transaction.

The recent housing crisis exposed a number of data gaps, risk management failures, and shortcomings in operational controls throughout the mortgage finance system. Identifiers (or IDs) are key infrastructure in the creation and collection of any data, and are critical to correctly identifying, combining, integrating, and validating records and data fields across various collections and systems. Certain identifiers would facilitate life-of-loan tracking of an application or loan origination.

At the same time, privacy considerations are likely to be a factor in the adoption of any requirement to provide unique identifiers that data users might be able to associate with a particular applicant or borrower. The Bureau believes it is important to solicit information that will help it determine how to appropriately address privacy considerations.

The Bureau analyzed potential unique identifiers using an industry standard framework for what defines a robust ID, including: persistence, uniqueness, extensibility, reliability and coverage. With this framework, the Bureau has assessed a number of options for each category of unique identifier. The Bureau plans to consider these qualities when determining which, if any, proposal for each unique identifier to implement in Regulation C. The Bureau is seeking input from SERs on how the proposals under consideration mentioned below meet these qualities or others that the SERs believe are relevant. The Bureau is also seeking input from SERs on privacy implications of FIs' collection, reporting, and disclosure of unique identifiers and, where applicable, how the Bureau might mitigate such risks.

i. Entity Identifier

The lack of a sufficiently comprehensive identification system for FIs that are parties in mortgage transactions can result in the same FI being identified by different names or codes. As a result, FIs, regulators, and data users may find data aggregation, validation, and analysis difficult. Unique entity identifiers may facilitate information sharing within FIs, among regulators, and across geographical locations.[55]

Currently under Regulation C, each FI submits its HMDA LAR using a HMDA Respondent/Reporter ID (HMDA RID), consisting of a combination of the entity ID specified by the FI's prudential regulator — with zeros added to become 10 digits — and the code of the regulating agency. The HMDA RID is listed on all the FI's HMDA data files and is searchable on the FFIEC and Bureau websites.

The Bureau is considering proposing changes to Regulation C's entity identifier requirement that it believes would improve the ability to identify a legal entity that is a party to a transaction and link it to its corporate organization, including affiliates, subsidiaries, and parent companies. These changes may help data users in achieving HMDA's objectives of identifying whether FIs are serving the housing needs of their communities, as well as identifying possible discriminatory lending patterns. These changes may also enable regulators to more easily identify each party to a transaction quickly and accurately, and may assist in identifying market activity and risks by related companies.

Under the current system, many subsidiaries of large FIs use independent HMDA RIDs, and there is no mechanism to link the related companies. The Bureau is considering the following two proposals to require a universal entity identifier that would more easily allow identification of affiliated companies and parent-subsidiary relationships.

- The Bureau is considering proposing requiring FIs to obtain and report a Legal Entity Identifier (LEI), which is an identifier that would comply with a global standard mandated by the G-20[56] that is currently under development by the Department of the Treasury's Office of Financial Research. This identifier would be a unique code assigned to a financial institution that would be linked to reference data about the company, including its name, address, corporate structure and affiliations. Support for the LEI is widespread,[57] and, although work is still progressing on the standard, some companies participating in the effort have been issued identifiers. There also is likely to be a cost for participation, although the cost is expected to decrease as the LEI program gains traction.

- The Bureau is also considering proposing requiring all FIs to obtain and report RSSD ID numbers, which are assigned and managed by the Board and already used by a significant portion of FIs as their HMDA RID. However, the RSSD system currently does not cover all FIs that are not depository institutions or holding companies and, thus, would require operational coordination with the Board in order to extend assignment of

[55] *See* Financial Stability Board, "A Global Legal Entity Identifier for Financial Markets," June 8, 2012, *available at* https://www.financialstabilityboard.org/publications/r_120608.pdf.

[56] *See* G-20 Cannes Summit Final Declaration, November 4, 2011, *available at* http://iipdigital.usembassy.gov/st/english/texttrans/2011/11/20111104151513su0.8040212.html#axzz2sHIAswBH.

[57] Many trade associations, including the Americans Bankers Association, expressed support for creation of the LEI in a letter to the Secretary of the Treasury and all G-20 finance ministers, *available at* http://www.gfma.org/correspondence/item.aspx?id=159.

numbers to additional nondepository institutions. Moreover, because of the manner in which IDs are assigned to bank branches, there may be rare cases where the identifier changes over time, compromising the reliability of the RSSD number created. Further, use of the HMDA RID will not comport with the global LEI standards currently under development.

The Bureau is interested in hearing from the SERs regarding which, if either, of these proposals it should propose to modify or replace the current HMDA RID requirement, including the benefits, burdens, and costs of each option, and whether either option is preferred to the current HMDA RID requirement.

ii. Loan Identifier

The size, complexity, and fragmented nature of the mortgage finance system and its regulation make it difficult to accurately identify lending patterns or connect various stages of the loan lifecycle. Currently, different identifiers may be assigned to the same mortgage loan for different purposes, such as for origination, sale of the loan, and reporting the HMDA data, and there is no system or process to synchronize those numbers with respect to each loan. The weaknesses in the current loan ID requirement make it difficult to track a loan over its life. The flexibility of the current requirement may also create privacy risks to the extent that FIs may include sensitive borrower information in their loan IDs, such as the borrower's last name. The Dodd-Frank Act added the requirement to report "as the Bureau may determine to be appropriate, a universal loan identifier."[58] Implementing this requirement may address many of the deficiencies associated with the current Regulation C loan ID. The Bureau also hopes that the universal loan ID would be used in other contexts by the industry, and therefore would be useful for purposes other than HMDA reporting.

Under Regulation C, FIs are required to report an identifying loan or application number that can be used to retrieve each file.[59] The loan ID can be any number of the institution's choosing, up to 25 characters. The official commentary to Regulation C strongly encourages FIs not to use Social Security numbers or applicants' names in the loan ID for privacy purposes, but does not prohibit use of that information in creating identifiers.[60]

Because Regulation C gives individual FIs substantial latitude in creating and assigning loan IDs, there is no uniformity in how the IDs are structured. There is no requirement that numbers be unique in the nationwide dataset, that they match any other regulatory ID requirements, or that they not be repeated from year to year.

To address these issues and other weaknesses in the ability to connect information related to individual loans, the Bureau is considering two proposals for revising the Regulation C loan ID and implementing a universal loan ID requirement:

- The Bureau is considering proposing adopting a universal loan ID requirement based on a national centralized registry for all mortgage loans and applications, either created and

[58] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(6)(G).

[59] 12 CFR 1003.4(a)(1).

[60] 12 CFR part 1003, Supp. I, comment 4(a)(4).

operated by the Bureau, or based on a viable industry standard, should one emerge. For instance, the Bureau could work with other financial regulators or industry groups such as MISMO to create a new platform for the creation of loan IDs. MISMO has a working group focused on developing a universal loan ID. While it has not produced recommendations, the group has considered a number of options such as the creation of a registry system based on the Digital Object Identifier (DOI) model, in which there is a centralized operating entity that allows for the creation or "minting" of IDs by others. This would allow for large lenders or LOS providers, for example, to become minters of IDs and help reduce assignment time and cost for industry. This development of a universal loan ID would require significant investment of time and money and substantial coordination among all relevant stakeholders. Another option would be to work with industry to implement a loan identifier program utilizing a bar code system or other open standard. Any option considered would focus on creating transparency in the marketplace for the life of the loan by using open standards.

- The Bureau is also considering proposing a hybrid identifier system. Adoption of a hybrid identifier system would allow individual institutions to assign a self-created unique identifier based on specific rules implemented in Regulation C and applied across the industry. The self-created loan ID would be appended to the unique entity identifier to create a combined ID that would be unique for each loan. The Bureau believes this proposal would be relatively simple to implement and comply with, but is concerned that entities may not use the ID for purposes other than HMDA, which would limit the full usefulness of the ID. The cost of implementing a hybrid system should be relatively low for industry since HMDA reporters are already creating their own loan IDs. While there would be a cost for updating current systems to ensure that the numbers created are unique and persistent, this cost also should be relatively low.

The Bureau is seeking information from the SERs to support their preference of these or any other alternatives to the existing loan ID requirement.

iii. Loan Originator Identifier

The Dodd-Frank Act authorized reporting of, "as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the [Secure and Fair Enforcement for] Mortgage Licensing Act of 2008" (S.A.F.E. Act).[61] The S.A.F.E. Act provides for a unique identifier under the Nationwide Mortgage Licensing System and Registry (NMLS) for individuals who originate residential mortgage loans. The S.A.F.E. Act requirements are implemented by the Bureau in Regulations G and H.[62]

The Bureau believes that implementing this requirement will improve HMDA data and assist in identifying and addressing potential issues, such as training deficiencies, with specific loan originators, as well as strengthen the transparency of the residential mortgage market. Being able to identify an individual who has responsibility in the transaction will enable new dimensions of analysis, including being able to link individual loan originators or groups of loan originators to a mortgage lending institution. The NMLS ID also provides a vehicle for industry

[61] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(6)(F).

[62] 12 CFR parts 1007 (Regulation G) and 1008 (Regulation H).

to self-test and determine appropriate corrective measures when they identify individual misconduct through self-analysis of HMDA data.

The Bureau is considering proposing requiring FIs to report the NMLS unique identifier for the employee who originated each loan or took and handled each application. The Bureau expects that this requirement would add, at most, marginal one-time implementation costs to small businesses as this information will be reported on the RESPA-TILA integrated disclosure form starting on August 1, 2015.[63] As a result, the NMLS unique identifier will be readily available to HMDA reporters at little to no ongoing cost.

iv. Property Identifier

Currently, for most loans, Regulation C requires FIs to report "[t]he location of the property to which the loan or application relates, by MSA or by Metropolitan Division, by state, by county, and by census tract . . . ."[64] Providing census tract information can be a significant burden for FIs because of the difficulties involved in matching addresses, such as those associated with new subdivisions, to their census tract (a process known as geocoding). In addition, the geocoding tool currently provided by the FFIEC and relied upon by many smaller entities lacks certain efficiencies, such as batch geocoding and integration with the free HMDA DES (*see* section III.D of this Outline).

The Dodd-Frank Act authorized reporting of, "as the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral."[65] As amended by the Dodd-Frank Act, HMDA also directs the Bureau (in place of the Board), in consultation with other agencies, to "develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of [HMDA]."[66]

There is no universal standard for identifying the location of a property so that it can be linked to related mortgage data. Instead, parcel data are collected and maintained by local governments with limited state or federal involvement. Local jurisdictions use their own standards and mechanisms for identifying property, which may include a combination of postal addresses, legal descriptions, tax parcel numbers, and geospatial coordinates.

Despite the various methods available for property identification, there remains a high incidence of misidentification of property that creates greater risks for mistakes and fraud. In addition, the lack of a common standard and database for property records leads to problems and inefficiencies in collecting and sharing data that impacts the entire mortgage process, from title searches to foreclosure proceedings. The Bureau believes that the addition of a property identifier requirement and the directive to facilitate economical compliance with matching

[63] The RESPA-TILA Integrated Disclosure rule provides standards for identifying the appropriate loan originator where more than one individual is listed in the disclosure documents. *See* 12 CFR 1026.37(k) and comment 37(k)-3 in the official commentary for 12 CFR part 1026 (Supplement I).

[64] 12 CFR 1003.4(a)(9).

[65] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(6)(H).

[66] Dodd-Frank Act sec. 1094(6), 12 U.S.C. 2806(a)(1).

addresses and census tracts provides a unique opportunity to improve Regulation C property location data and the reporting process. The Bureau believes it is important to solicit information that will help it determine how to appropriately address privacy considerations.

The Bureau is considering two proposals related to a property identifier: reporting geographic coordinates or postal address.

- A geographic coordinate system using latitude and longitude to identify parcels allows for precise location of properties. A benefit of such a system is that the coordinates are easy to maintain and universally recognized. However, there could be difficulties for multiunit properties (*e.g.*, condominiums, high-rise apartments) and maintaining accuracy. The Bureau understands that such a system is currently under development within the industry.

- Postal address is currently collected during the mortgage origination process and would be a low cost option to implement. Reporting of a postal address could potentially obviate the need for reporting the current property location fields, as geocoding could be done from the reported address by the processor. However, postal addresses sometimes do not correspond to the physical location of a property. Further, there are some inaccuracies associated with postal addresses. Reporting postal addresses also raises privacy concerns, which are discussed below in section C of Appendix A.

The Bureau is seeking input from the SERs on these proposals under consideration and others that might reduce burden and improve the quality of HMDA data.

2. Application Data

Regulation C currently contains several data points relating to the application itself, including: the date the application was received; the action taken on the application; the date the action was taken; and optional reporting for denial reasons. The Bureau is reviewing current data points and is also considering proposals related to Dodd-Frank Act amendments and other data points to improve the utility of the application information.

i. Reasons for Denial

Regulation C currently permits optional reporting of reasons for denial of a loan application.[67] In general, the statistical value of such data obtained through optional reporting is compromised because of the lack of standardization across all reporters. Further, certain FIs supervised by the OCC and FDIC are required by those agencies to report denial reasons on their HMDA LARs.[68] The Bureau is considering proposing requiring all FIs to report reasons for denial. The Bureau believes this proposal could provide more consistent and meaningful data to serve HMDA's purposes. The Bureau is also considering whether the current codes relating to reasons for denial (debt-to-income ratio, employment history, credit history, collateral, insufficient cash, unverifiable information, credit application incomplete, mortgage insurance denied, other) should be amended.

[67] 12 CFR part 1003.4(c)(1), App. A, sec. I.F.

[68] 12 CFR 27.3(a)(1)(i), 128.6, 390.147.

ii. Automated Underwriting System (AUS) Results

An automated underwriting system (AUS) is a computer application that FIs use to evaluate loan applications. FIs input certain information about an application into the AUS and the AUS generates messages, including a recommendation indicating both whether the application is eligible to be approved or should be referred for further underwriting and specific conditions on that recommendation. There are several AUSs, including Fannie Mae's Desktop Underwriter, Freddie Mac's Loan Prospector, the Federal Housing Administration's (FHA's) TOTAL Scorecard, and others.[69] Larger lenders may have their own proprietary AUSs. AUS systems are frequently used by FIs that intend to sell loans to the GSEs or to insure loans with FHA, because the AUS recommendation may indicate whether the loan is eligible for purchase or insurance. The Bureau and other regulators review AUS return codes during examinations because the AUS recommendation may play an important role in the credit decision.

The Bureau is considering requiring FIs to report information about AUS results if an AUS was used to evaluate an application. This new reporting requirement would provide valuable information on credit underwriting. During the 2010 Board hearings on HMDA[70] and the Bureau's review of current HMDA operations, commentators have recommended requiring reporting of AUS results.

The Bureau understands that there are different ways to collect information about AUS results. For example, FIs could report the name of the AUS system used and the actual return code generated by that system. Alternatively, FIs could report only the return code in categories defined by the Bureau, such as, recommended approval or recommended referral for further underwriting.

The Bureau understands that FIs may process a single application through an AUS multiple times or through multiple AUS systems. The Bureau is considering collecting only the AUS return code relied on by the FI in the credit decision. The Bureau solicits feedback regarding the potential costs and benefits associated with this proposal for consideration, including the burden associated with such a reporting requirement.

iii. Application Channel

The Dodd-Frank Act amended HMDA to add the requirement for FIs to report, for originations and applications, "the channel through which application was made, including retail, broker, and other relevant categories."[71]

The Bureau understands that primary application channels include: (1) retail, where the applicant submits the application directly to the lender; and (2) wholesale, where the applicant submits the application to a mortgage broker that sends the application to the lender, with or

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[69] *See* Fannie Mae's Desktop Underwriter, *available at* https://www.fanniemae.com/singlefamily/desktop-underwriter# ;
Freddie Mac's Loan Prospector, *available at* http://www.loanprospector.com/; and
FHA's TOTAL Scorecard, *available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/total/total_scorecard .

[70] Testimony of Allison Brown (Federal Trade Commission), DC Hearing.

[71] Dodd-Frank Act sec. 1094(3); 12 U.S.C. 2803(b)(6)(E).

without a table-funding arrangement. A third application channel includes correspondent arrangements between two lenders. The Bureau understands that a purchasing lender may have different arrangements with correspondents and may or may not delegate underwriting authority to a correspondent. A correspondent with delegated underwriting authority processes an application much like the retail channel described above. The correspondent receives the application directly from the applicant, makes the credit decision, finances the transaction initially, and immediately sells the loan to an acquiring creditor. Correspondents with nondelegated authority operate more like a mortgage broker in the wholesale channel. These correspondents receive the application from the applicant, but prior to closing involve a third party lender that funds the transaction and in whose name the transaction closes. The correspondent with nondelegated authority does not make the credit decision without lender involvement.

To determine how to implement the statutory requirement, the Bureau seeks information on how FIs characterize and define different application channels. The Bureau is also interested in information about the type of data that FIs typically collect and maintain about different application channels.

iv. Other Information Concerning Applications

The Bureau is considering proposing to retain existing Regulation C data points concerning the type of action taken, the date of action taken,[72] the date the application was received,[73] and requests for preapproval.[74] The Bureau plans to review the instructions and official commentary regarding action taken to determine if it can improve clarity regarding these data points.

3. Borrower Data

Currently, Regulation C requires reporting of income and demographic information about applicants and borrowers, including the ethnicity, race, and sex of an applicant/co-applicant and borrower/co-borrower.[75] Information about applicants and borrowers generally fulfills the purpose of helping to identify potential discriminatory lending patterns. The Bureau is also considering proposals related to Dodd-Frank Act amendments and information gaps regarding applicant and borrower information.

i. Age

The Dodd-Frank Act amended HMDA to require the collection and reporting of an applicant's or borrower's age for loan originations and applications.[76] The Bureau believes that implementing this requirement will help fulfill HMDA's purposes of identifying whether FIs are serving the

[72] 12 CFR 1003.4(a)(8).

[73] 12 CFR 1003.4(a)(1).

[74] 12 CFR 1003.4(a)(4).

[75] 12 U.S.C. 2803(b)(4), 12 CFR 1003.4(a)(10).

[76] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(4).

housing needs of their communities, targeting public investment, and identifying possible discriminatory lending patterns.

Age is a protected category under ECOA and Regulation B.[77] For monitoring purposes, Regulation B requires a creditor to request and maintain applicant information, including age, for certain transactions secured by the applicant's dwelling.[78] Unlike HMDA data, ECOA monitoring data are not reported or disclosed to the public. Under Regulation B, "age" refers "only to the age of natural persons and means the number of fully elapsed years from the date of an applicant's birth."[79] Given that one of the purposes of HMDA is to enforce antidiscrimination statutes, the Bureau seeks to ensure that any changes to Regulation C align well and do not conflict with Regulation B.

FIs that use the Uniform Residential Loan Application (URLA) form[80] currently collect the date of birth of the borrower and co-borrower, if applicable. Existing MISMO/ULDD data standards for age information include both the date of birth (YYYY-MM-DD format) and the age of the borrower at the time of application (numeric data point).

In light of consumer privacy concerns related to date of birth, the Bureau is considering proposing that FIs report the age of the applicant(s) or borrower(s) at the time of application. (Section C of Appendix A, below, discusses this and other privacy concerns and potential mitigants.) Reporting age, rather than birth date, would be consistent with both Regulation B and MISMO definitions. The Bureau solicits comment on such a reporting requirement.

ii. Credit Score

The Dodd-Frank Act added the requirement to report "the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe."[81]

The Bureau is considering proposing that FIs report the credit score used to make the credit decision, applying the Fair Credit Reporting Act's (FCRA) definition of credit score.[82] The Bureau requests feedback regarding the benefits and costs associated with adopting this definition, as well as on whether the Bureau should adopt an alternative definition. For a discussion of privacy concerns, see section C of Appendix A below.

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[77] 15 U.S.C. 1691(a)(1), 12 CFR 1002.1(b) , 1002.4(a)(b), *available at* http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=0b62bb2c7ea45fbd7f64a441d202433a&r=PART&n=12y8.0.2.9.1.

[78] 12 CFR 1002.5(a)(2), 1002.12(b)(1)(i), and 1002.13(a)(1)(iv).

[79] 12 CFR 1002.2(d).

[80] Freddie Mac Form 65 or Fannie Mae Form 1003.

[81] Dodd-Frank Act sec. 1094(6), 12 U.S.C. 2803(b)(6)(I).

[82] The FCRA defines credit score as "a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors....and [] does not include [1] any mortgage score or rating of an automated underwriting system that considers one or more factors in addition to credit information, including the loan to value ratio, the amount of down payment, or the financial assets or a consumer; or [2] any other elements of the underwriting process or underwriting decision." 15 U.S.C. 1681g(f)(2)(A).

The Bureau understands that FIs may collect multiple credit scores for applicants. The Bureau is considering proposing that FIs report only the credit score the institution used to make the credit decision for the loan. For example, Regulation C could require that a FI that collected three scores, but used only the lowest to make the credit decision, report solely the lowest score. Where there are multiple applicants, the Bureau is considering proposing that FIs report the single credit score used to make the credit decision for the loan. The Bureau solicits feedback regarding such reporting requirements.

The Bureau also understands that some FIs rely on multiple credit scores when making credit decisions. For example, an institution might collect three scores and use the average of the scores to make the credit decision. The Bureau solicits feedback regarding reporting one or all of the scores used to make the credit decision or, alternatively, the average of such scores.

In addition to credit score, the Bureau is considering proposing that FIs report related contextual information, such as the date on which the score was created, the name of the scoring model used, and the range of possible scores under the model used. The Bureau solicits feedback regarding the costs and benefits associated with reporting this information, as well as whether additional information would be necessary to put the credit score reported into context.

iii. Debt-to-Income Ratio

The Bureau is considering using its authority under HMDA to add a new reporting requirement regarding the applicant's or borrower's debt-to-income ratio (DTI). The Bureau believes that most FIs use DTI ratio as an underwriting consideration. The Bureau has been informed that, in many cases, DTI ratio is the primary reason for a denial of an application. Thus, adding a DTI ratio reporting requirement may improve targeting of government supervision and enforcement resources.[83]

The Bureau is primarily interested in "back-end" DTI ratio, which generally includes the total amount of debt owed by a consumer and is not limited to housing-related debt. The Bureau is also considering a reporting requirement for "front-end" DTI ratio, which generally refers to a consumer's housing-related debt, such as the mortgage payment and ongoing property taxes. The Bureau solicits feedback regarding whether unique burdens would exist with respect to reporting front-end or back-end DTI ratios, and what are any particular benefits of reporting one or the other type of DTI ratio.

The Bureau recognizes that there is not a single, uniform definition of DTI ratio. Thus, the Bureau also seeks feedback on how the burden to report DTI ratio would differ for different calculation methods, such as: (1) the value calculated by FIs' loan origination systems; (2) the value calculated according to investor guidelines; (3) the value calculated according to the information provided on the URLA; or (4) other methods of calculation. The Bureau also seeks feedback on whether the same benefits of DTI ratio reporting would be achieved by requiring FIs to report the ratio relied on by the FI in processing the application, rather than requiring a particular calculation method.

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[83] See *Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts*, GAO-09-704, 20 (July 2009), *available at* http://www.gao.gov/new.items/d09704.pdf .

iv. Other Data Concerning Applicants and Borrowers

The Bureau is considering proposing to retain existing Regulation C data points regarding ethnicity, race, and sex.[84]

The Bureau is also considering proposing to retain the existing Regulation C data point regarding gross annual income relied on in processing the application.[85] The Bureau plans to review the instructions and official commentary regarding this data point to identify opportunities to improve clarity in this area.

The Bureau is soliciting information about any current compliance issues with these data points.

4. Loan Types

Currently, Regulation C requires reporting of information about loans that helps to distinguish categories and types of loans. The Bureau is also considering proposals related to Dodd-Frank Act amendments and information gaps regarding loan category information.

i. Loan Purpose and Categories

Regulation C requires the reporting of "the purpose of the loan or application."[86] FIs currently must identify a reported loan's purpose as for "home purchase," "home improvement," or "refinancing."[87]

The Bureau has been informed that FIs often experience difficulty when determining a loan's purpose for HMDA reporting. For example, the proceeds of a loan may be for multiple purposes, such as for refinancing and home improvement. Also, FIs may have difficulty determining a loan's purpose at application.

The Bureau is interested in learning about ways to facilitate compliance by reducing the burden associated with reporting loan purpose. The Bureau solicits information regarding the costs and benefits associated with the three current enumerated loan purposes, and specifically solicits input regarding the costs and benefits of eliminating the home improvement enumeration. The Bureau also solicits input regarding whether any other loan purpose should be added to fulfill HMDA's purpose of helping to determine whether FIs are serving the housing needs of their communities, and, if so, the costs and benefits associated with adding such a new loan purpose.

Similarly, the Bureau is aware that information on certain categories of loans is missing from the information currently reported under HMDA. The Bureau believes that HMDA's utility may be improved if FIs were required to report whether a loan or application is for a reverse

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[84] 12 CFR 1003.4(a)(10).

[85] 12 CFR 1003.4(a)(10).

[86] 12 CFR 1003.4(a)(3).

[87] 12 CFR 1003, App. A sec. I.A.5.

mortgage, HELOC, or cash-out refinancing. The Bureau is also aware that some FIs experience unique challenges when determining HMDA compliance on business-purpose loans. The Bureau also solicits feedback on the costs and benefits associated with reporting business-purpose loans under HMDA, and whether the potential modifications under consideration present additional costs or benefits. The Bureau solicits data and information on the costs and benefits of requiring the reporting of these additional loan designations. The Bureau also solicits input on the potential reporting methods by which these loans can be identified, for example, on the costs and benefits of requiring FIs to use only a yes/no flag to identify loans that are reverse mortgages, HELOCs, or cash-out refinancings, or of identifying these loans through new data points.

ii. Other Data Points Concerning Loan Categories

The Bureau is considering using its authority under HMDA to propose a new requirement to report for each loan whether the FI determined the loan to be a Qualified Mortgage under Regulation Z at the time the loan was originated.[88] The Bureau believes this information may be valuable in furthering HMDA's purposes, including helping to determine how FIs are serving the housing needs of their communities. In addition, the Bureau expects that this information will be collected and reported within and between market participants as a common business practice, so it will be available through commercial sources. Therefore, requiring the information under Regulation C should impose little additional burden.

Regulation C currently requires FIs to report "[w]hether the loan is subject to the Home Ownership and Equity Protection Act of 1994, as implemented in Regulation Z (12 CFR 1026.32)."[89] Loans must be reported as High-Cost Mortgages if their APRs or points and fees exceed the thresholds set forth in Regulation Z.[90] To improve the usefulness of this data point, which the Board added to Regulation C in 2002 to better understand and focus fair lending resources on the subprime market,[91] the Bureau is considering requiring FIs that originate or purchase High-Cost Mortgages to specify which HOEPA thresholds (rate, points and fees, and certain prepayment penalties) are met. Any additional burden associated with reporting this information would be limited to the small fraction of FIs that originate or purchase High-Cost Mortgages.[92]

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[88] See the Bureau's 2013 Mortgage Rule Implementation Page for information about the Ability to Repay/Qualified Mortgage rule: http://www.consumerfinance.gov/regulatory-implementation/.

[89] 12 CFR 1003.4(a)(13).

[90] 12 CFR 1026.32.

[91] *See* 67 FR 7222, 7223, 7229 (Feb. 15, 2002), *available at* http://www.gpo.gov/fdsys/pkg/FR-2002-02-15/pdf/02-3323.pdf.

[92] For 2012, only 524 of 7,400 HMDA reporters (approximately 7 percent) extended HOEPA loans, and only 5 of 2,185 HOEPA loans that were reported (less than 0.25 percent) were sold to secondary market participants. Neil Bhutta and Glenn B. Canner, Mortgage Market Conditions and Borrower Outcomes: Evidence from the 2012 HMDA Data and Matched HMDA–Credit Record Data, Federal Reserve Bulletin (Sept. 18, 2013), *available at* http://www.federalreserve.gov/pubs/bulletin/2013/pdf/2012_HMDA.pdf. The fraction of lenders originating High-Cost Mortgages may increase under the Bureau's 2013 Final HOEPA Rule, which took effect in January of 2014; however, the Bureau does not expect any increase to be significant. *See* 78 FR 6856, 6953-57 (Jan. 31, 2013).

The Bureau would retain the current, statutory data point regarding the type of entity purchasing a loan.[93]

5. Loan Features

Currently, Regulation C requires information regarding certain loan features. The Bureau is considering additional data points related to Dodd-Frank Act amendments and information gaps regarding loan features.

i. Nonamortizing Features

The Dodd-Frank Act added the requirement to report "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."[94] The Bureau is considering proposing to implement this requirement by requiring FIs to report whether the loan includes, or would have included, a balloon payment, interest-only payments, or negative amortization features. The Bureau is considering defining these three features to be consistent with the Loan Estimate disclosure form finalized as part of the Bureau's Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z).[95]

Under this proposal:

- For balloon payments, FIs would report this feature if the loan included a payment that is more than two times a regular periodic payment and is not itself a regular periodic payment, consistent with the integrated mortgage disclosures rule.[96]
- For interest-only payments, FIs would report this feature if the loan permits one or more regular periodic payments to be applied only to interest accrued and not to the loan principal, consistent with the integrated mortgage disclosures rule.[97]
- For negative amortization, FIs would report this feature if the principal balance of the loan may increase due to the addition of accrued interest to the principal balance, consistent with the integrated mortgage disclosures rule.[98]

[93] 12 CFR 1003.4(a)(11), 12 U.S.C. 2803(h)(1)(C). The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) added this requirement. Pub. L. No. 101-73, 103 Stat. 183 (1989), sec. 1211(b), available at http://www.gpo.gov/fdsys/search/searchresults.action?st=.+Pub.+L.+No.+101-73.

[94] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(6)(C).

[95] Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) 78 FR 79730 (Dec. 31, 2013), *available at* https://www.federalregister.gov/articles/2013/12/31/2013-28210/integrated-mortgage-disclosures-under-the-real-estate-settlement-procedures-act-regulation-x-and-the.

[96] *Id. See* 12 CFR 1026.37(a)(10)(ii)(D).

[97] *Id. See* 12 CFR 1026.37(a)(10)(ii)(B).

[98] *Id. See* 12 CFR 1026.37(a)(10)(ii)(A).

The Bureau is also seeking input on whether any other features may meet the definition of "contractual terms or proposed contractual terms" that include "payments other than fully amortizing payments."

ii. Introductory Period of Adjustable Rate Mortgage

The Dodd-Frank Act added the requirement to report, for loans and applications, "the actual or proposed term in months of any introductory period after which the rate of interest may change."[99] Currently, the HMDA data does not show whether an application or loan relates to a fixed-rate or adjustable rate loan, even though pricing decisions vary by product type. Moreover, the introductory term is an important factor in the borrower's real cost and the anticipated future interest rate risk of the loan.

Lenders that charge high initial loan fees may do so in order to offer low initial rates. An indication that the loan has an adjustable interest rate may permit users of HMDA data to understand more fully new data on total points and fees payable at origination that the Bureau is also considering collecting as a result of the Dodd-Frank Act amendments. [100] In addition, this information can be combined with new information on payments that are not fully amortizing,[101] discussed above, to understand whether a particular loan may have other features that affect how the loan should be viewed for HMDA purposes. The value of adding information about adjustable rate mortgages (ARMs) to better understand the impact of various underwriting characteristics was referenced by a number of commenters in the 2010 Board hearings.[102]

Therefore, the Bureau is considering proposing a requirement that FIs report the number of months of the initial fixed period of an ARM for which a consumer applied or that was originated.

iii. Other Information Concerning Loan Features

The Dodd-Frank Act added the requirement to report the "actual or proposed term in months of the mortgage loan."[103] The Bureau is considering proposing to implement this provision by requiring FIs to report the maturity term of the loan in months.

The Dodd-Frank Act also added the requirement to report "the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments."[104] The Bureau is considering proposing

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[99] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(6)(B).

[100] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(5)(A).

[101] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(6)(C).

[102] Testimony of Lisa Rice, National Fair Housing Alliance; testimony of Donald Clark, Federal Trade Commission; testimony of Kevin Stein, California Reinvestment Coalition, DC Hearing.

[103] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(6)(D).

[104] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(5)(C).

to implement this requirement by requiring FIs to report any prepayment penalty period in months.

The Bureau is considering proposing to retain the current Regulation C requirement for reporting loan or application type, which relates to whether the loan is or would be a conventional loan, or is insured by the Federal Housing Administration, or is guaranteed by the Veterans Administration or Department of Agriculture.

6. Loan-to-Value Ratio

Currently, Regulation C requires reporting information regarding the loan amount. However, it is not possible to use this data to analyze the loan-to-value (LTV) ratio using HMDA data. LTV ratio is a key pricing and underwriting factor used by FIs and would assist data users in interpreting the underwriting and loan pricing information reported in the HMDA data. Therefore, the Bureau is considering additional data requirements to facilitate analysis of LTV ratio.

i. Property Value

The Dodd-Frank Act added the requirement to report, for loans and applications, "the value of the real property pledged or proposed to be pledged as collateral."[105] When combined with the existing Regulation C requirement to report loan amount, this new requirement will allow users to calculate LTV ratio from HMDA data. The general benefit of adding LTV ratio for regulatory screening efforts was noted in the 2009 GAO report on fair lending[106] and many commenters at the 2010 Board hearings supported adding LTV ratio.[107]

Because LTV ratio generally is calculated using the lower of the purchase price or the appraised price for a purchase loan, the Bureau is proposing to implement the property value requirement by requiring a FI to report whatever value it relied on in underwriting or pricing the loan.

The Bureau is soliciting input on how this requirement should be fulfilled for applications that do not result in originations where a property valuation has not been performed.

The Bureau has also considered requiring the reporting of both appraised value (defined broadly to include broker price opinions and other valuations) and purchase price. This additional reporting would increase the amount of data available in HMDA and allow users to see both values for reported transactions. However, the Bureau believes this may be burdensome as one or the other value would not have been relied on by the FI in making the credit decision, and purchase price is generally not relevant in refinancing transactions.

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[105] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(6)(A).

[106] GAO-09-704, 21 (July 2009).

[107] Testimony of Jeffrey Dillman, Adam Rust, James Elliott, Stella Adams, Atlanta Hearing; Testimony of Preston DuFouchard, Keith Ernst, San Francisco Hearing; Testimony of Bill Howard, Chicago Hearing; Testimony of Janneke Ratcliffe, Eric Halperin, DC Hearing.

The Bureau has also considered requiring reporting of the valuation method used to determine the property value (such as purchase price, automated valuation, appraisal, or broker price opinion). However, the Bureau believes this also may be burdensome on FIs.

ii. Other Information Concerning Loan-to-Value Ratio

The Bureau is considering using its authority under HMDA to propose requiring FIs to report the Combined Loan-to-Value Ratio (CLTV) they relied on in processing applications. These data are important for understanding underwriting and pricing decisions for properties subject to multiple liens.

As indicated above, the Bureau is considering proposing retaining the existing Regulation C data point regarding loan amount or amount applied for,[108] which, combined with the new requirement for property value, will allow the calculation of LTV ratio using HMDA data.

7. Pricing Data

Currently, the only pricing data FIs report under HMDA are the rate spread for higher-priced loans and an indicator of HOEPA loan status. The lack of pricing data in HMDA has often been cited as a primary weakness of the HMDA data set. Recognizing this, the Dodd-Frank Act amended HMDA to require the collection and reporting of the number and dollar amount of mortgage loans grouped according to measurements of, among other things, "the total points and fees payable at origination in connection with the mortgage as determined by the Bureau, taking into account 15 U.S.C. 1602(aa)(4)."[109]

i. Total Points and Fees

The Dodd-Frank Act language directing the Bureau to require reporting of points and fees also directs it to consider how points and fees are defined in TILA for purposes of determining whether a transaction is a High-Cost Mortgage or a Qualified Mortgage.[110] Regulation Z implements this definition of points and fees.[111] Effective January 10, 2014, Regulation Z will provide that total points and fees generally include the following types of charges, if the amount of the charge is known at or before consummation of the loan:

- Items included in the finance charge under Regulation Z[112] except: (1) interest; (2) government mortgage insurance premiums and funding fees; (3) annual private mortgage insurance (PMI) premiums and some upfront PMI premiums; (4) bona fide

[108] 12 CFR 1003.4(a)(7).

[109] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(5)(A). The Dodd-Frank Act elsewhere renumbered 15 U.S.C. 1602(aa) as 15 U.S.C. 1602(bb).

[110] TILA sec. 103(bb)(4), 15 U.S.C. 1602(bb)(4). TILA section 129C(b)(2)(C)(i) defines points and fees for Qualified Mortgages to have the same meaning as in TILA section 103(bb)(4).

[111] 12 CFR 1026.32(b)(1).

[112] 12 CFR 1026.4(a) and (b).

third-party charges not retained by the creditor, loan originator, or an affiliate; and (5) up to two bona fide discount points, under certain conditions;

- Loan originator compensation paid by a consumer or creditor to a loan originator, but not separately including a creditor or loan originator's (*e.g.*, a mortgage broker's) subsequent payment to its own employee;

- Real estate-related charges (*e.g.*, property appraisal fees, title exam, title insurance fees) if paid to an affiliate of the creditor, or for which the creditor receives direct or indirect compensation;

- Credit insurance premiums and charges for debt cancellation or debt suspension agreements;

- The maximum penalty that could be charged if a consumer prepays the loan; and

- The fee charged to a consumer in a refinance transaction as a penalty for prepaying the prior loan.

As amended by the Dodd-Frank Act, TILA provides that points and fees for open-end credit plans include total points and fees that are known at or before closing, as well as the minimum additional fees the consumer would be required to pay to draw down an amount that is equal to the total credit line.[113] Section 1026.32(b)(2) of Regulation Z implements this provision by providing that total points and fees for HELOCs generally include all of the charges included in points and fees under Regulation Z § 1026.32(b)(1), plus any participation fees payable at or before account opening, and, if there is a charge to draw on the credit line, the amount that would be charged for one draw.

The Bureau is considering proposing to implement the Dodd-Frank Act requirement that FIs report total points and fees for originated loans by specifying that FIs report: the total dollar amount calculated pursuant to Regulation Z, 12 CFR 1026.32(b)(1) (closed-end) or 1026.32(b)(2) (open-end). The Bureau believes that this approach is consistent with the Dodd-Frank Act requirement that FIs report total points and fees "taking into account" the definition used for Qualified Mortgages and High-Cost Mortgages, and that it should be minimally burdensome because most FIs will have calculated these amounts for Qualified Mortgage and High-Cost Mortgage testing. In addition, this approach should align with new Qualified Mortgage data fields that will be incorporated into accepted industry reporting standards.

The Bureau solicits information on the benefits and burden of requiring total points and fees to be reported for loans that are not subject to the Regulation Z § 1026.32 definition. Such loans would include business-purpose loans that are not subject to Regulation Z, and HELOCs secured by a consumer's secondary residence, which are subject to neither Qualified Mortgage nor High-Cost Mortgage rules.

The Bureau's proposal under consideration would require the reporting of a total dollar amount of points and fees as defined in Regulation Z.[114] At this time, the Bureau is not planning to

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[113] TILA sec. 103(bb)(5), 15 U.S.C. 1602(bb)(5).

[114] 12 CFR 1026.32(b)(4).

propose to collect points and fees as a percentage of the total loan amount; however, the Bureau solicits comment on the merits of collecting this total as a percentage, given that FIs will likely maintain this data for Qualified Mortgage and High-Cost Mortgage regulatory compliance.

ii. Other Pricing-related Data

Total origination charges. Requiring reporting of total points and fees as calculated for Qualified Mortgage and High-Cost Mortgage purposes will not permit visibility into component items of points and fees, such as how much of the total is comprised of origination charges paid by the consumer to the FI or loan originator for originating and extending the credit. In addition, because the Regulation Z § 1026.32 total excludes certain charges, such as up to two bona fide discount points, it may not always provide a complete picture of loan pricing. As a result, the Bureau is considering using its authority under HMDA to propose requiring FIs to separately report total origination charges, in addition to total points and fees.

Total origination charges is a value that will be reported for real property-secured, closed-end mortgage loans on the Closing Disclosure under the Bureau's RESPA-TILA Integrated Disclosures rule and the Bureau is considering adopting for HMDA the same definition used for the Closing Disclosure. Specifically, total origination charges would include any charge, however denominated, paid by the consumer to the creditor and to each loan originator at or before closing for originating and extending the credit.[115] The total thus would include charges such as application fees, origination fees, underwriting fees, processing fees, verification fees, and rate-lock fees. It would not include charges paid by the borrower for required services provided by persons other than the creditor or loan originator, nor would it include taxes or other government fees.[116] The Bureau believes that knowing total origination charges would provide further clarity concerning loan pricing and may be useful for flagging potentially discriminatory lending practices for further investigation.

The Bureau anticipates that reporting of total origination charges for closed-end mortgage loans would be minimally burdensome because most FIs will have calculated this amount for the Closing Disclosure. In addition, the amount should align with a new data point that MISMO has been developing to be consistent with the Bureau's new Closing Disclosure and which MISMO had released for public comment before adoption into its residential mortgage standards.

The Bureau notes that the Closing Disclosure will not be required for HELOCs, for loans secured by personal property (such as many manufactured housing loans), or for business-purpose loans not subject to Regulation Z. The Bureau believes that total origination charges, as defined for disclosure purposes, can be calculated for these types of transactions but invites input on the burden of reporting this information and on whether preferable alternatives exist.

[115] *See* amended Regulation Z, 12 CFR 1026.38(f)(1), as published at 78 FR 79730, 80008-10 (Dec. 31, 2013).

[116] Examples of charges that might not be included in total origination charges include appraisal fees, credit report fees, flood determination fees, lender's attorney fee, tax status research fee, and title fees. *See id*.

The Bureau also notes that, during the Board's 2010 HMDA hearings, several commenters recommended that loan originator compensation be reported with points and fees.[117] While some amounts of loan origination compensation will be included in totals for both Regulation Z § 1026.32 points and fees and total origination charges, the Bureau is not currently considering proposing to require separate HMDA reporting of loan originator compensation. The Bureau invites feedback, however, on the benefits and burdens of requiring separate reporting of this data, particularly in light of the fact that The Dodd-Frank Act requires reporting of application channel. The Bureau notes that, if it were to propose separate reporting of loan originator compensation, the amount reported would likely be the amount required to be included in Regulation Z points and fees, which is the same amount that would be reported on the Closing Disclosure (*i.e.*, compensation paid by a consumer or creditor to a loan originator, but not separately including a creditor or loan originator's subsequent payment to its own employee).

Total discount points. Knowing the total discount points paid by the consumer to the creditor to reduce the interest rate—particularly when combined with other pricing and underwriting information—may assist data users in better understanding loan pricing and in identifying potentially discriminatory lending patterns for further investigation. The Bureau therefore is considering using its authority under HMDA to propose requiring FIs to separately report total discount points paid by the consumer to reduce the interest rate.[118] For closed-end, real property-secured loans, the amount under consideration would correspond to the amount required to be shown on the new Closing Disclosure and would align with new data reporting fields that currently are being incorporated into accepted industry reporting standards.[119]

Risk-adjusted, pre-discounted interest rate. The Bureau is considering using its authority under HMDA to propose requiring FIs to report the base interest rate calculated in connection with the Qualified Mortgage and High-Cost Mortgage bona fide discount point calculations.[120] Knowing the interest rate that the consumer would have received in the absence of any discount points or rebates, along with the rate that the consumer actually received and any discount points paid, may assist in understanding the value that the consumer received, relative to otherwise similarly situated borrowers, in exchange for total discount points paid. This analysis, in turn, may be useful for flagging potentially discriminatory lending practices for further investigation.

Interest rate. The Bureau is considering using its authority under HMDA to propose requiring FIs to report the interest rate. Knowing the interest rate that the consumer actually

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[117] Testimony of Phil Greer, Will Jordan, Atlanta Hearing; NCRC, comment letter (Sept. 24, 2010); Advocates for Basic Legal Equality, comment letter (Aug. 20, 2010); NEDAP, comment letter (Aug. 20, 2010).

[118] During the Board's 2010 HMDA hearings, HUD's Assistant Secretary of Policy Development and Research recommended that total discount points be reported separately from other points and fees data, to provide a complete picture of loan pricing. Testimony of Raphael Bostic, DC Hearing.

[119] *See* amended Regulation Z, 12 CFR 1026.38(f)(1), as published at 78 FR 79730 (Dec. 31, 2013) (requiring disclosure of the points that the consumer will pay to the creditor to reduce the interest rate, as both a percentage of the amount of credit extended and a dollar amount).

[120] *See, e.g.*, 12 CFR 1026.32(b)(1)(i)(E) (permitting the exclusion of up to two bona fide discount points from total points and fees, provided that the consumer's interest rate *before excluding the would-be bona fide points* did not exceed the average prime offer rate by more than one percentage point).

received, along with discount points paid and the rate that the consumer would have received in the absence of any discount points or rebates, may assist in understanding the value that the consumer received, relative to otherwise similarly situated borrowers, in exchange for total discount points paid. Again, this analysis may be useful for flagging potentially discriminatory lending practices for further investigation.

The Dodd-Frank Act added the requirement to report for all loans "the difference between the annual percentage rate [APR] associated with the loan and a benchmark rate or rates for all loans" (*i.e.*, rate spread).[121] Currently, Regulation C requires FIs to report this spread for "higher-priced" loans the FIs originated, *i.e.*, loans for which the difference between the APR and APOR equals or exceeds 150 basis points (for subordinate liens the spread must equal or exceed 350 basis points).[122] Loans identified as "higher priced" are subject to certain additional protections in Regulation Z. Informal FFIEC guidance indicates that rate spread need not be reported for HELOCs.[123]

The Bureau is considering two alternatives to implement the Dodd-Frank requirement. First, the Bureau is considering requiring FIs to report the spread between a loan's disclosed APR and the APOR for a comparable transaction. Existing guidance in Regulation C would be used to determine the correct APOR for closed-end transactions and guidance developed in connection with the Bureau's 2013 HOEPA Final Rule would be used to determine the correct APOR for HELOCs.[124]

Second, the Bureau is considering requiring reporting of a loan's APR in addition to rate spread. If rate spread were reported, it would be possible to estimate a loan's APR, but the actual APR would be unknown because the APOR used to generate the spread would be unknown. Similarly, if APR were reported, it would be possible to calculate a loan's rate spread, but again the result would be only an estimate. The Bureau seeks information on the relative benefits and burdens of reporting of rate spread, APR, or both.

For any alternative, the Bureau also invites feedback on the burden of requiring reporting for loans not subject to Regulation Z (*i.e.*, business-purpose loans).

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[121] Dodd-Frank Act sec. 1094(3), 12 U.S.C. 2803(b)(5)(B).

[122] 12 CFR 1003.4(a)(12). The Board added this requirement to Regulation C in 2002, using its authority to prescribe such regulations as may be necessary to effectuate the purposes of HMDA. *See* 67 FR 7222, 7228 (Feb. 15, 2002).

[123] *See* FFIEC, Regulatory and Interpretive (FAQs), *available at* http://www.ffiec.gov/hmda/faqreg.htm#heloc.

[124] *See* 78 FR 6856, 6873-75 (discussing new 12 CFR 1026.32(a)(1)(i) and comments 32(a)(1)(i)-1 and -2).

8. Property Data

Currently, Regulation C requires certain information about the property that secures or will secure the loan, including location, property type, and owner-occupancy status. The Bureau is considering using its authority under HMDA to propose requiring FIs to collect and report additional data points that provide property information.

i. Expanded and Modified Property Type Information

Regulation C currently requires FIs to record the property type to which a loan or application relates.[125] Appendix A to Regulation C provides three reporting values, or enumerations, for this information: (1) one- to four-family dwelling (other than manufactured housing); (2) manufactured housing; and (3) multifamily dwelling. The Bureau is considering replacing the existing reporting requirement with the following requirements:

Financed Unit Count. The Bureau is considering proposing to replace the current property type reporting framework with a streamlined requirement to report the number of units financed by the reported loan or application. The Bureau anticipates that this proposal would simplify reporting by aligning with information collected by the GSEs under established industry standards. In addition, this change would facilitate more robust analysis of access to credit for multifamily housing, which would be valuable for those communities where multifamily housing is an important component of housing stock. Community advocates suggested this change during the 2010 hearings on HMDA.[126]

Affordable Housing Programs. For loans secured by dwellings with more than one financed unit, the Bureau is considering proposing to require FIs to report whether the property is deed restricted for affordable housing. Consumer advocates urged the Board to collect this information during the 2010 Board hearings.[127] This proposal might enable more robust analysis of access to credit in certain communities and better targeting of public resources, consistent with HMDA's purposes.

Construction Method Type. The Board added identification of manufactured homes as a property type under Regulation C in 2002, finding that HMDA data was enhanced by identifying these types of loans, which tend to be underwritten differently from and have higher denial rates than other loans.[128] However, the current Regulation C property types do not correspond to other industry standards for data collection and reporting, such as information collected by the

[125] 12 CFR 1003.4(a)(5).

[126] *See, e.g.*, Testimony of John Lind, San Francisco Hearing.

[127] Testimony of Kevin Stein, California Reinvestment Coalition; Paul Ainger, Affordable Development Housing Consultant; Clarence L. Johnson, Mills Grove Christian Church Disciples of Christ in the East Oakland Community of Maxwell Park, San Francisco Hearing.

[128] 67 FR 7222, 7227 (Feb. 15, 2002). An analysis of 2012 HMDA data shows that one-third of all manufactured home loan applications were originated, compared to almost two-thirds for 1- to 4-family dwellings. Similarly, almost 44 percent of all manufactured home loan applications were considered higher-priced (*i.e.*, had rate spreads reported in HMDA), compared to less than 3 percent for 1- to 4-family dwellings.

GSEs, which treat construction method and financed unit count as distinct concepts. The Bureau therefore is considering proposing to require reporting of the construction process for the dwelling that would secure, or secures, the application or loan. This would replace the current reporting method for property type, including manufactured housing, with a requirement to report a dwelling's construction method, such as site-built or manufactured housing.[129]

Financing Type. For loans secured, or to be secured, by manufactured housing, the Bureau is considering proposing to require the reporting of whether the loan is or would be secured by real property or personal property (*i.e.*, chattel). During the 2010 Board Hearings, commenters noted that a key issue in understanding manufactured housing, which predominantly serves lower- and middle-income populations, is to know how the home is financed. Manufactured homes loans are often secured by personal property and generally carry higher interest rates, shorter loan terms, and fewer consumer protections than conventional mortgages secured by real property.[130] The Bureau believes that being able to identify personal property-secured loans included in HMDA data would assist in determining whether manufactured home lenders are meeting the housing needs of their communities and in identifying possible discriminatory lending within the manufactured housing market.

Property Estate Type. In addition, for loans secured by manufactured housing, the Bureau is considering proposing to require the reporting of the borrower's ownership interest in the underlying land, *i.e.*, whether the manufactured home will be sited on owned or leased land. Based on 2012 Census data, 77 percent of newly sited manufactured homes were financed by loans secured by personal property (often with higher interest rates and fewer protections), even though almost 60 percent of those newly sited homes were placed on land owned by the consumer, rather than in land-lease communities.[131] The Bureau believes that knowing whether a manufactured home is placed on owned or leased land, together with the financing type and pricing data for the home loan, could help in understanding the manufactured housing market and serve HMDA's purposes in that market, but invites feedback on the burdens associated with this proposal under consideration.

ii. Property Location

Regulation C currently requires FIs to report information about the location of the property related to certain applications and loans originated or purchased, including: (1) the Metropolitan Statistical Area (MSA) or Metropolitan Division (MD); (2) state; (3) county; and (4) census tract.[132]

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[129] Commenters at the 2010 Board hearings requested clarification on the reporting of manufactured housing and modular housing. *See, e.g.*, Testimony of Bill Loving, Atlanta Hearing.

[130] Testimony of Lance George, Housing Assistance Council, DC Hearing; Housing Assistance Council, comment letter (Sept. 20, 2010); Community Reinvestment Association of North Carolina, comment letter (Dec. 22, 2010).

[131] *See* Selected Characteristics of New Manufactured Homes Placed: by Region – 2012, *available at* http://www.census.gov/construction/mhs/pdf/char12.pdf .

[132] 12 CFR 1003.4(a)(9).

Regulation C only requires FI to report the property location information if the loans relate to property located in the MSA or MD in which the FI has a home or branch office or if the FI is subject to certain reporting requirements under the Community Reinvestment Act (CRA).[133] If the property related to the loan is located in a county with a population of 30,000 or less, reporting of the census tract is optional.[134] The Bureau is considering requiring reporting of the property location information described above for all loans.

The Bureau anticipates that this proposal would streamline reporting by eliminating an optional element, which the Bureau understands creates confusion and uncertainty for reporters. The Bureau believes that the burden of this change would be minimal, in part because many FIs already voluntarily report this information. In addition, as discussed elsewhere, the Bureau is considering operational modifications, including centralizing geocoding, which would significantly reduce the burden of reporting property location information.

This proposal also would strengthen HMDA data by connecting all reported loans to other loans related to property in the same communities, which would enhance the community-level data available for fair lending analysis, analyzing access to credit, and targeting public investment. Moreover, the Bureau is considering this proposal in light of current trends in the market, such as branch consolidation and national lenders operating from a single branch office, which might lead to significant gaps in property location information in the future.

iii. Other Property Information

The Bureau is considering proposing retaining the current Regulation C data point regarding owner occupancy status.[135] The Bureau invites feedback on whether the information required should be changed to include reporting of either investment, principal residence, or second home to align with industry standards.

B. Clarifying Reportable Applications

Regulation C requires FIs to collect and report certain information about loan applications.[136] Currently, Regulation C defines application generally as "an oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a [FI] for the type of credit requested." The definition expressly covers certain preapproval programs.[137]

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[133] *See* 12 CFR 1003.4(e) (stating that "banks and savings associations that are required to report data on small business, small farm, and community development lending under the [CRA]... shall also collect the location of property located outside MSAs and Metropolitan Divisions in which the institution has a home or branch office, or outside any MSA").

[134] 12 CFR 1003, App. A.I.C.3.

[135] 12 CFR 1003.4(a)(6).

[136] 12 CFR 1003.4.

[137] 12 CFR 1003.2.

The Regulation C definition of application has been criticized as providing FIs too much latitude to decide which contacts with consumers to report as applications, resulting in inconsistent reporting across institutions. Others assert that flexibility in the definition of application may be necessary to accommodate varied business practices. As discussed below, the Bureau has considered amending Regulation C to further clarify the circumstances in which contact with a potential borrower constitutes an application. At this time, the Bureau is disinclined to change the current requirements but is seeking feedback on the issue.

Specifically, the Bureau has considered more closely aligning the Regulation C definition of "application" with the Regulation B definition used for purposes of ECOA.[138] Currently, the principal difference between the definitions is that Regulation B's definition (unlike Regulation C's) encompasses certain prequalification requests.[139] Were the Bureau to amend the Regulation C definition of application to cover prequalification requests, the compliance burden for FIs may increase in that institutions would be required to report more "applications." The Bureau also notes that, at the prequalification stage, FIs may not yet have collected some of the information that HMDA and Regulation C require that FIs report.

The Bureau also has considered aligning the Regulation C definition of "application" with the new Regulation Z definition.[140] Effective August 1, 2015, receipt of an application as newly defined by Regulation Z will trigger a creditor's obligation under the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) to provide the borrower a summary of key loan terms and estimated loan and closing costs.[141] Weighing against alignment of the Regulation C and Regulation Z definitions are the different purposes of the statutes that each regulation implements.

While the Bureau is disinclined to fully align the Regulation C definition of application with either the Regulation B or the Regulation Z definition, the Bureau seeks feedback on the issue and on whether there are aspects of the Regulation C definition of application that may benefit from greater clarification.

Finally, during the 2010 Board hearings, some commenters questioned the utility of reporting preapprovals and urged the Bureau to redefine application so as to not include preapprovals.

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[138] 12 CFR part 1002, Supp. I.

[139] "A prequalification request is a request by a prospective loan applicant (other than a request for preapproval) for a preliminary determination on whether the prospective applicant would likely qualify for credit under an institution's standards, or for a determination on the amount of credit for which the prospective applicant would likely qualify." 12 CFR part 1003, Supp. I, comment 1003.2 (Application)-2.

[140] Effective August 1, 2015, Regulation Z defines an "application" as "the submission of a consumer's financial information for the purposes of obtaining an extension of credit." Regulation Z, 12 CFR 1026.2(a)(3)(i), as amended by Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z), (Integrated Mortgage Disclosures Final Rule), 78 FR 79730 (Dec. 31, 2013). For certain transactions, under Regulation Z "an application consists of the submissions of the consumer's name, the consumer's income, the consumer's Social Security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought." Regulation Z, 12 CFR 1026.2(a)(3)(ii), as amended by Integrated Mortgage Disclosures Final Rule.

[141] 12 CFR 1026.19(e), as published at 78 FR 79730 (Dec. 31, 2013).

The Bureau is not currently considering proposing to redefine application to exclude preapprovals, given the importance of capturing information on making credit decisions at the preapproval stage.

C. Protecting Consumer Privacy

HMDA is a disclosure statute. Its purposes are to provide the public and public officials with information to enable them to determine whether FIs are serving the housing needs of the communities and neighborhoods in which they are located, to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, and to assist public officials in distributing public sector investments in a manner designed to improve the private investment environment. In implementing HMDA to effectuate these purposes, the Bureau is directed by the statute to protect the privacy interests of applicants and borrowers as appropriate.

The information that FIs report and disclose pursuant to HMDA and Regulation C generally does not include personal information that directly identifies individuals, such as name, address, date of birth, or Social Security number.[142] Even so, if all information reported on the LAR were publicly disclosed in an unedited format, some information could potentially be used to identify individual applicants and borrowers and possibly harm their privacy interests. Accordingly, the Bureau is examining the privacy implications of both the FIs' collection, reporting, and disclosure of information pursuant to HMDA and Regulation C and the regulators' releases of HMDA data and reports.

Consistent with the disclosure goals of the statute, HMDA requires that FIs make their LARs available to the public upon request, in a form required under regulations prescribed by the Bureau. Congress has provided that "[t]he Bureau shall require, by regulation, such deletions as the Bureau may determine to be appropriate" to protect any privacy interest of any applicant, and to protect FIs from liability under any federal or state privacy law.[143] The Dodd-Frank Act further directs the Bureau to "modify or require modification of itemized information, for the purpose of protecting the privacy interests of mortgage applicants or mortgagors, that is or will be available to the public."[144] Where necessary to protect privacy, the Bureau must "provide for the disclosure of information . . . in aggregate or other reasonably modified form, in order to effectuate the purposes of [HMDA]."[145] The Bureau recognizes that mitigating privacy risks in the HMDA data disclosed to the public may decrease the utility of the data to users and is investigating strategies and techniques to protect consumer privacy while maximizing the utility of the data for the purposes of the statute.

[142] As described above, the official commentary to Regulation C strongly encourages that FIs not use Social Security numbers or applicants' names in the loan ID for privacy reasons, but does not prohibit use of that information in creating the loan ID. The loan ID field is redacted from the HMDA data disclosed to the public, however.

[143] 12 U.S.C. 2803(j)(2)(B).

[144] 12 U.S.C. 2803(h)(1)(E).

[145] 12 U.S.C. 2803(h)(3)(B).

Currently, in order to protect applicant and borrower privacy, Regulation C requires a FI to report loan amount and income rounded to the nearest thousand[146] and to delete three fields from its LAR before making it available to the public: the application or loan number; the date the application was received; and the date action was taken.[147] The Dodd-Frank Act amendments and the Bureau's proposals will require that institutions include additional data points on the LAR. Public disclosure of some of these new data points could potentially harm the privacy interests of applicants and borrowers. These new data points include credit score and age, which Congress identified as data points that may raise privacy concerns.[148] The Bureau is evaluating whether it is necessary to modify these data points or other data points before disclosure for the purpose of protecting privacy interests.

The Bureau is considering proposing that FIs continue to report loan amount and income rounded to the nearest thousand and to delete the three fields that Regulation C currently requires to be deleted from the modified LAR. It is also considering proposing that FIs delete or otherwise modify additional data points on the modified LAR that may raise privacy concerns, including, but not limited to, credit score and age. The Bureau is also considering whether, as an alternative to deletion, there are other methods that would appropriately protect applicant and borrower privacy while still providing users with data useful to fulfilling HMDA's purposes. For example, the Bureau is considering whether requiring FIs to bin the age data point into categories such as "62 or over" or "under 62"[149] would appropriately protect applicant and borrower privacy while still providing users with useful data.

The Bureau is also considering strategies to protect applicant and borrower privacy in connection with the regulators' release of HMDA data, including, but not limited to, the use of various statistical disclosure limitation techniques, such as techniques aimed at masking the precise value of data points,[150] use restrictions, and a restricted access program.

[146] 12 CFR part 1003, App. A, sec. I(A)(7), (D)(6).

[147] 12 CFR 1003.5(c). These three fields are identified in the statute as fields that are appropriate for deletion before institutions make their LARs public. 12 U.S.C. § 2803(j)(2)(B).

[148] 12 U.S.C. 2803(h)(3)(A).

[149] Data binning is a technique wherein the original data value (in this case, age as reported to regulators on the LAR) is placed in an interval, or bin, and is then represented by the value of that bin. Applied to the age data point, for example, institutions would replace each age data point on the LAR with the appropriate bin value before making the modified LAR available to the public.

[150] Examples of these techniques include binning, coarsening, perturbing, and top and bottom coding.

Appendix B: Legal Authority and Other Relevant Federal Rules

This appendix describes the statutory authority for Regulation C, the Dodd-Frank Act amendments to HMDA, and the Bureau's authority to implement those changes and make other amendments to Regulation C. It also describes other federal rules which may potentially overlap or conflict with Regulation C.

A. Bureau's HMDA Rulemaking Authority

The Bureau has broad rulemaking authority to implement HMDA, including the authority to prescribe such regulations as may be necessary to carry out the purposes of HMDA. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary and proper to effectuate the purposes of HMDA, and prevent circumvention or evasion thereof, or facilitate compliance therewith.[151] The Bureau also has authority to, among other things, issue regulations concerning the submission and disclosure of data and determining the timing of submissions.[152]

The Dodd-Frank Act made several amendments to HMDA, including adding new data elements to be compiled and reported; directing the Bureau to make determinations about whether certain data elements are appropriate for addition; and granting the Bureau authority to require additional data elements and information.[153] The Dodd-Frank Act also amended HMDA to authorize the Bureau to develop regulations for the purpose of protecting the privacy interests of applicants and borrowers.[154]

B. Community Reinvestment Act

Similar to HMDA, the Community Reinvestment Act of 1977 (CRA) was enacted out of concerns that depository institutions were not meeting the credit needs of the communities they served, particularly in low- and moderate-income areas.[155] CRA is implemented through regulations issued by the OCC, the Board, and the FDIC.[156]

The CRA regulations require the OCC, the Board, and the FDIC to examine and rate their regulated institutions on how well they are meeting the credit needs of their communities,

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[151] Dodd-Frank Act, sec. 1094, 12 U.S.C. 2803, 2804.

[152] *See, e.g.*, Dodd-Frank Act, sec. 1094(3), 12 U.S.C. 2803(h)(1), (j)(1)-(3), (k)(1).

[153] *See, e.g.*, Dodd-Frank Act, sec. 1094(3), 12 U.S.C. 2803(b)(5)(D) and (J).

[154] Dodd-Frank Act, sec. 1094(3)(B); 12 U.S.C. 2803(h)(1)(E), adding to the protections for applicants' privacy that are in HMDA sec. 304(j)(2)(B); 12 U.S.C. 2803(j)(2)(B).

[155] 12 U.S.C. 2901-2908.

[156] 12 CFR parts 25 and 195 (OCC), 228 (Board), and 345 (FDIC).

including low- and moderate-income neighborhoods.[157] To facilitate CRA examinations, the agencies' CRA regulations impose certain data collection and reporting obligations on DIs subject to the CRA. The data collected and reported concern lending to small businesses and small farms and community development loans.[158]

HMDA and Regulation C play an important role in CRA examinations. Most prominently, CRA rules require the agencies to consider the geographic distribution and borrower income levels of large DIs' home mortgage lending. Specifically, the CRA rules require a comparison of a large DI's home mortgage lending inside and outside its CRA assessment area and its home mortgage lending to low-, moderate-, middle-, and upper-income individuals.[159] "Home mortgage loan" for CRA purposes is defined with reference to Regulation C's definitions of home improvement loan, home purchase loan, and refinancing.[160] To facilitate CRA examinations, other regulators require large DIs to report property location data for all applications and loans under HMDA, even if they relate to property located outside an MSA or Metropolitan Division in which the DIs have a home or branch office, or outside any MSA.[161]

Because HMDA data are relied on in evaluating CRA-covered institutions' performance under the CRA, the Bureau is planning to coordinate any changes to Regulation C with the CRA agencies to ensure that CRA regulations and Regulation C do not conflict. The Bureau is seeking information on how any of the changes the Bureau is considering proposing as noted in this document might impact CRA compliance.

C. TILA, RESPA (Regulation Z and Regulation X)

The Bureau has authority to issue regulations implementing other consumer protection laws that apply to home mortgage lending. These include the Truth in Lending Act[162] (implemented by Regulation Z[163]) and the Real Estate Settlement Procedures Act[164] (Regulation X[165]). The Bureau is attempting, where possible, to align definitions and terms in Regulation C with those in Regulation Z and Regulation X. However, where terms and requirements must be different in

157 *See* 12 CFR 228.21-29, 42.

158 12 CFR 228.12, 42-43.

159 12 CFR 228.22(b)(2)(i), (3)(i). *See also* 60 FR 22172 ("The data are also necessary for the lending test assessment criterion that evaluates the degree to which an institution's lending is inside its assessment area.").

160 12 CFR 228.12(l).

161 12 CFR 1003.4(e).

162 15 U.S.C. 1601 *et seq*.

163 12 CFR part 1026.

164 12 U.S.C. 2601-2617.

165 12 CFR part 1024.

order to facilitate the different purposes of the statutes, the Bureau is planning to retain those differences and is not considering proposing to align the definitions and terms.[166]

Notably, the Bureau recently issued a final rule implementing the Dodd-Frank Act requirement to integrate the disclosures under TILA and RESPA.[167] Some of the information collected as part of HMDA is also included on the disclosures, and the GSEs are currently implementing loan delivery data standards to collect this information. The Bureau is seeking comment on how the proposals in this document might impact Regulation X and Regulation Z compliance.

D. ECOA/Regulation B

ECOA makes it illegal for a creditor to discriminate in any aspect of a credit transaction, including home financing, against any applicant because of race, color, religion, national origin, sex, marital status, age (if the applicant is old enough to enter into a contract), receipt of income from any public assistance program, or the exercise in good faith of a right under the Consumer Credit Protection Act.[168] The Bureau has certain oversight, enforcement, and supervisory authority over ECOA requirements and has rulemaking authority under the statute.

ECOA's implementing regulation, Regulation B, generally prohibits creditors from inquiring about an applicant's race, color, religion, national origin, or sex, with limited exceptions, including when it is required by regulation such as by Regulation C.[169] Regulation B requires creditors to request information about the race, ethnicity, sex, marital status, and age of applicants for certain dwelling-secured loans and to retain that information for certain periods.[170] Regulation B requires this data collection for credit primarily for the purchase or refinancing of a dwelling occupied or to be occupied by the applicant as a principal residence, where the extension of credit will be secured by the dwelling, and requires the data to be maintained by the creditor for 25 months for monitoring purposes.[171] Unlike HMDA data, ECOA monitoring data are not reported or disclosed to the public. Persons such as mortgage brokers and loan correspondents who are otherwise prohibited from collecting demographic data of an applicant are permitted to do so if the purpose of the collection of such information is to provide it to a creditor that is covered by HMDA.[172]

HMDA data are relied on in evaluating a creditor's fair lending compliance under ECOA and the Bureau is planning to ensure that any changes to Regulation C do not conflict with Regulation B.

166 See Appendix A regarding the proposals under consideration regarding nonamortizing features and points and fees, and a discussion of the definition of "application."

167 78 FR 79730 (Dec. 31 , 2013).

168 15 U.S.C. 1691(a)(1).

169 12 CFR 1002.5(a), (b), 12 CFR part 1002, Supp. I, comment 5(a)-2.

170 12 CFR 1002.5(a)(2), 1002.12(b)(1)(i), 1002.13(a).

171 12 CFR 1002.12(b)(1)(i), 1002.13(a)(1).

172 12 CFR pt. 1002, Supp. I, comment 5(a)(2)-3.

The Bureau is seeking information on how any of the changes the Bureau is considering proposing as noted in this document might impact ECOA compliance.

E. Regulation AB

The SEC's Regulation AB[173] addresses the registration, disclosure, and reporting requirements for asset-backed securities under the Securities Act of 1933 and the Securities Exchange Act of 1934. In April 2010, the SEC released a notice of proposed rulemaking announcing a plan to reform its Regulation AB by collecting and publishing loan-level data for private mortgage-backed security (MBS) issuances, including loan, borrower, originator, and performance characteristics.[174] The proposed standard is based on an XML format and uses data definitions developed by the SEC. The SEC re-released proposed revisions (Regulation AB II) in July 2011, but has not yet released final revisions.[175]

At this time, the Bureau is not considering proposing to align HMDA data standards with Regulation AB standards for MBS issuances. Regulation AB data standards have not been finalized, so the Bureau is unable to determine to what extent those standards may differ from the Bureau's proposals regarding HMDA.

[173] 17 CFR part 229, subpart 1100.

[174] Asset-Back Securities Proposed Rule, 75 FR 23328 (May 3, 2010), *available at* http://www.sec.gov/rules/proposed/2010/33-9117fr.pdf).

[175] Re-Proposal of Shelf Eligibility Conditions for Asset-Backed Securities, 76 FR 47948 (Aug. 5, 2011) *available at* http://www.sec.gov/rules/proposed/2011/33-9244fr.pdf.

Appendix C: Dodd-Frank Amendments

**Dodd-Frank Wall Street Reform and Consumer Protection Act,
Pub. L. 111-2013, 124 Stat. 1376 (approved July 21, 2010)**

SEC. 1094. AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT OF 1975.

The Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.) is amended—

(1) by striking "Board" each place that term appears, other than in sections 303, 304(h), 305(b) (as amended by this section), and 307(a) (as amended by this section) and inserting "Bureau".

(2) in section 303 (12 U.S.C. 2802)—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(B) by inserting before paragraph (2) the following:

"(1) the term 'Bureau' means the Bureau of Consumer Financial Protection;";

(3) in section 304 (12 U.S.C. 2803)—

(A) in subsection (b)—

(i) in paragraph (4), by inserting "age," before "and gender";

(ii) in paragraph (3), by striking "and" at the end;

(iii) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(5) the number and dollar amount of mortgage loans grouped according to measurements of—

"(A) the total points and fees payable at origination in connection with the mortgage as determined by the Bureau, taking into account 15 U.S.C. 1602(aa)(4);

"(B) the difference between the annual percentage rate associated with the loan and a benchmark rate or rates for all loans;

"(C) the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; and

"(D) such other information as the Bureau may require; and

"(6) the number and dollar amount of mortgage loans and completed applications grouped according to measurements of—

"(A) the value of the real property pledged or proposed to be pledged as collateral;

"(B) the actual or proposed term in months of any introductory period after which the rate of interest may change;

"(C) 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;

"(D) the actual or proposed term in months of the mortgage loan;

"(E) the channel through which application was made, including retail, broker, and other relevant categories;

"(F) as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the S.A.F.E. Mortgage Licensing Act of 2008;

"(G) as the Bureau may determine to be appropriate, a universal loan identifier;

"(H) as the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral;

"(I) the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe; and

"(J) such other information as the Bureau may require.";

(B) by striking subsection (h) and inserting the following:

"(h) SUBMISSION TO AGENCIES.—

"(1) IN GENERAL.—The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for the institution reporting under this title, in accordance with rules prescribed by the Bureau. Notwithstanding the requirement of subsection (a)(2)(A) for disclosure by census tract, the Bureau, in consultation with other appropriate agencies described in paragraph (2) and, after notice and comment, shall develop regulations that—

"(A) prescribe the format for such disclosures, the method for submission of the data to the appropriate agency, and the procedures for disclosing the information to the public;

"(B) require the collection of data required to be disclosed under subsection (b) with respect to loans sold by each institution reporting under this title;

"(C) require disclosure of the class of the purchaser of such loans;

"(D) permit any reporting institution to submit in writing to the Bureau or to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans; and

"(E) modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public.

"(2) OTHER APPROPRIATE AGENCIES.—The appropriate agencies described in this paragraph are—

"(A) the appropriate Federal banking agencies, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to the entities that are subject to the jurisdiction of each such agency, respectively;

"(B) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;

"(C) the National Credit Union Administration Board with respect to credit unions; and

"(D) the Secretary of Housing and Urban Development with respect to other lending institutions not regulated by the agencies referred to in subparagraph (A) or (B).

"(3) RULES FOR MODIFICATIONS UNDER PARAGRAPH (1).—

"(A) APPLICATION.—A modification under paragraph (1)(E) shall apply to information concerning—

"(i) credit score data described in subsection (b)(6)(I), in a manner that is consistent with the purpose described in paragraph (1)(E); and

"(ii) age or any other category of data described in paragraph (5) or (6) of subsection (b), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose.

"(B) STANDARDS.—The Bureau shall prescribe standards for any modification under paragraph (1)(E) to effectuate the purposes of this title, in light of the privacy interests of mortgage applicants or mortgagors. Where necessary to protect the privacy interests of mortgage applicants or mortgagors, the Bureau shall provide for the disclosure of information described in subparagraph (A) in aggregate or other reasonably modified form, in order to effectuate the purposes of this title.";

(C) in subsection (i), by striking "subsection (b)(4)" and inserting "subsections (b)(4), (b)(5), and (b)(6)";

(D) in subsection (j)—

(i) by striking paragraph (3) and inserting the following:

"(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in such formats as the Bureau may require"; and

(ii) in paragraph (2)(A), by striking "in the format in which such information is maintained by the institution" and inserting "in such formats as the Bureau may require";

(E) in subsection (m), by striking paragraph (2) and inserting the following:

"(2) FORM OF INFORMATION.—In complying with paragraph (1), a depository institution shall provide the person requesting the information with a copy of the information requested in such formats as the Bureau may require."; and

(F) by adding at the end the following:

"(n) TIMING OF CERTAIN DISCLOSURES.—The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for any institution reporting under this title, in accordance with regulations prescribed by the Bureau. Institutions shall not be required to report new data under paragraph (5) or (6) of subsection (b) before the first January 1 that occurs after the end of the 9–month period beginning on the date on which regulations are issued by the Bureau in final form with respect to such disclosures.";

(4) In section 305 (12 U.S.C. 2804)—

(A) by striking subsection (b) and inserting the following:

"(b) POWERS OF CERTAIN OTHER AGENCIES.—

"(1) IN GENERAL.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements of this title shall be enforced—

"(A) under section 8 of the Federal Deposit Insurance Act, The appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to—

"(i) any national bank or Federal savings association, and any Federal branch or Federal agency of a foreign bank;

"(ii) any member bank of the Federal Reserve System (other than a national bank), branch or agency of a foreign bank (other than a Federal branch, Federal agency, and insured State branch of a foreign bank), commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25A of the Federal Reserve Act; and

"(iii) any bank or State savings association insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), any mutual savings bank as, defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), any insured State branch of a foreign bank, and any other depository institution not referred to in this paragraph or subparagraph (B) or (C);

"(B) under subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau, with respect to any person subject to this subtitle;

"(C) under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any insured credit union; and

"(D) with respect to other lending institutions, by the Secretary of Housing and Urban Development.

"(2) INCORPORATED DEFINITIONS.—The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."; and

(B) by adding at the end the following:

"(d) OVERALL ENFORCEMENT AUTHORITY OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, enforcement of the requirements imposed under this title is committed to each of the agencies under subsection (b). To facilitate research, examinations, and enforcement, all data collected pursuant to section 304 shall be available to the entities listed under subsection (b). The Bureau may exercise its authorities under the Consumer Financial Protection Act of 2010 to exercise principal authority to examine and enforce compliance by any person with the requirements of this title.";

(5) in section 306 (12 U.S.C. 2805(b)), by striking subsection (b) and inserting the following:

"(b) EXEMPTION AUTHORITY.—The Bureau may, by regulation, exempt from the requirements of this title any State–chartered depository institution within any State or subdivision thereof, if the agency determines that, under the law of such State or subdivision, that institution is subject to requirements that are substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced by the Office of the Comptroller of the Currency under section 8 of the Federal Deposit Insurance Act, in the case of national banks and Federal savings associations, the deposits of which are insured by the Federal Deposit Insurance Corporation."; and

(6) by striking section 307 (12 U.S.C. 2806) and inserting the following:

"SEC. 307. COMPLIANCE IMPROVEMENT METHODS.

"(a) IN GENERAL.—

"(1) CONSULTATION REQUIRED.—The Director of the Bureau of Consumer Financial Protection, with the assistance of the Secretary, the Director of the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Bureau deems appropriate, shall develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this subsection.

"(3) CONTRACTING AUTHORITY.—The Director of the Bureau of Consumer Financial Protection is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

"(b) RECOMMENDATIONS TO CONGRESS.—The Director of the Bureau of Consumer Financial Protection shall recommend to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, such additional legislation as the Director of the Bureau of Consumer Financial Protection deems appropriate to carry out the purpose of this title.".

Appendix D: List of Acronyms

API	Application Programming Interface
APOR	Average Prime Offer Rate
APR	Annual Percentage Rate
ARM	Adjustable Rate Mortgage
AUS	Automated Underwriting System
CLTV	Combined Loan-to-Value Ratio
CRA	Community Reinvestment Act
DES	Data Entry Software
DI	Depository Institution
DTI	Debt-to-Income Ratio
ECOA	Equal Credit Opportunity Act
FCRA	Fair Credit Reporting Act
FDIC	Federal Deposit Insurance Corporation
FFIEC	Federal Financial Institutions Examination Council
FHFA	Federal Housing Finance Agency
FI	Financial Institution
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989
GSEs	Government-Sponsored Enterprises (Fannie Mae and Freddie Mac)
HEL	Home Equity Loan
HELOC	Home Equity Line of Credit
HMDA	Home Mortgage Disclosure Act
HMDA RID	HMDA Respondent/Reporter ID
HMS	HMDA Management Software
HOEPA	Home Ownership and Equity Protection Act
HUD	Department of Housing and Urban Development
IDs	Identifiers
LAR	Loan/Application Register
LEI	Legal Entity Identifier
LOS	Loan Origination System
LTV	Loan-to-Value
MD	Metropolitan Division
MISMO	Mortgage Industry Standards Maintenance Organization
MSA	Metropolitan Statistical Area
NCUA	National Credit Union Administration
NMLS	Nationwide Mortgage Licensing System
Non-DI	Nondepository Institution
OCC	Office of the Comptroller of the Currency
PMI	Private Mortgage Insurance
QM	Qualified Mortgage
RESPA	Real Estate Settlement Procedures Act
SBA	Small Business Administration
SBREFA	Small Business Regulatory Enforcement Fairness Act
SEC	Securities and Exchange Commission
SER	Small Entity Representative
TILA	Truth in Lending Act
ULDD	Uniform Loan Delivery Dataset
URLA	Uniform Residential Loan Application

Appendix E: Glossary

Annual, ongoing operational costs means the estimated yearly costs for complying with the requirements of HMDA and Regulation C.

Application is defined by Regulation C, and means an oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a FI for the type of credit requested. The term includes certain requests for preapproval. 12 CFR 1003.2. Generally, this outline uses the term application to refer to a HMDA-reportable transaction that did not result in an origination (loan), but would require reporting on a HMDA Loan/Application Register.

Cost of Credit refers to the cost of a small entity obtaining credit.

Data Entry Software or **DES** means the free software provided on the FFIEC website that FIs may use to submit their annual HMDA data. HMDA DES includes editing features to help verify and analyze the accuracy of the data and creates a file that can be submitted in soft or hard copy.

Data Point means a single item of data collected and reported under HMDA/Regulation C for a LAR record, such as action taken or loan amount. Often referred to as a variable or data element in other contexts, data point is the terminology used by the Bureau in its HMDA rulemaking process. Data points discussed in this Outline of Proposals Under Consideration either relate to current Regulation C requirements, implementation of Dodd-Frank Act requirements, or data needed to address information gaps.

Depository institution or **DI** means, generally, a financial institution that is a bank, savings association, or credit union that is covered by Regulation C. *See* 12 CFR 1003.2.

Dodd-Frank Act or **DFA** means the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203 (July 21, 2010), section 1094 of which significantly amended HMDA.

Financial institution or **FI** means an institution (either a DI or a non-DI) that is covered by Regulation C and required to report HMDA data. *See* 12 CFR 1003.2.

Fixed costs means the estimated annual, ongoing operational costs to maintain a system and process for HMDA compliance.

GSE means government-sponsored enterprise, and, in these materials, specifically refers to Fannie Mae and Freddie Mac. The requirements of the GSEs are a significant influence on the mortgage industry, including their data standards for loan delivery (*see* ULDD).

HMDA means the Home Mortgage Disclosure Act of 1975 (as amended), 12 U.S.C. 2801–2810. HMDA was amended by the Dodd-Frank Act, which transferred broad rulemaking authority for HMDA to the Bureau and added additional requirements discussed in this outline. HMDA is implemented by Regulation C.

HMDA Management Software or **HMS** means privately developed software that FIs may use to collect, organize, manage, and submit their annual HMDA data.

LAR means the HMDA Loan/Application Register. The LAR is a financial institution's electronic or paper register of the individual records for each application or loan and contains the required data for each in the appropriate format. Instructions for completing the LAR are provided in Appendix A to Regulation C.

Loan generally means a HMDA-reportable origination, which would include the Regulation C definitions of "home purchase loan," "home improvement loan," and "refinancing."

Loan Origination System or **LOS** means a private software application or system that an FI uses to create new loans by defining and tracking the steps throughout the process, from application to booking the loan onto the system of record.

MISMO means the Mortgage Industry Standards Maintenance Organization residential mortgage data standards. These standards provide an XML architecture encompassing data origination, secondary market, and servicing data for residential mortgages, and a data dictionary to provide business definitions and corresponding architecture data element tag names. One of the primary goals of the Bureau's proposals under consideration is to align HMDA data points with MISMO to the extent practicable (*see* ULDD).

Nondepository Institution or **Non-DI** means a financial institution that is a for-profit mortgage lending institution other than a bank, savings association, or credit union that is covered by Regulation C. *See* 12 CFR 1003.2.

One-time costs means the estimated costs to transition to revised HMDA requirements, including the one-time costs of potentially upgrading processing systems; transition preparation (planning meetings and research) by legal and compliance teams; and development of software systems, training, and compliance procedures.

Record refers to an individual LAR entry regarding an application or loan. It is generally used in this outline in discussions of cost or reporting processes.

Regulation C is the implementing regulation for HMDA and is codified in the Code of Federal Regulations at title 12, part 1003 (12 CFR part 1003). The Bureau may include the proposals under consideration discussed in this outline in a proposed rule through which the Bureau would seek public comment on proposed amendments to Regulation C.

Small Business Regulatory Enforcement Fairness Act of 1996 or **SBREFA**, Pub. L. No. 104-121 (Mar. 29, 1996), refers to the statute that establishes the Small Business Review Panel process for certain Bureau, Environmental Protection Agency, and Occupational Health and Safety Administration rulemakings.

Small Business Review Panel or **Panel** means a panel formed of representatives from the Bureau, the Chief Counsel for Advocacy of the Small Business Administration, and the Office of Management and Budget's Office of Information and Regulatory Affairs. A Panel is convened in accordance with SBREFA when a rule under development may have a significant economic impact on a substantial number of small entities. The Panel for the Bureau's HMDA rulemaking will prepare a report of its recommendations after discussing with Small Entity Representatives the Outline of Proposals Under Consideration.

Small Entity means a small business, small organization, or a small government as defined by the Regulatory Flexibility Act. The size standards for determining a business as small vary by industry and are established by the Small Business Administration. Small entities affected by this rulemaking within the meaning of SBREFA include DIs with annual assets of $500 million or less and non-DIs with annual revenues of $35.5 million or less.

Small Entity Representative or **SER** means a representatives of a small business who participates in the SBREFA process to provide input on costs and benefits of the proposals under consideration in a rulemaking.

System of Record or **SoR** means the location of the definitive data values and information pertinent to processing and resolution of applications for mortgage products.

ULDD means the Uniform Loan Delivery Dataset, which is the common set of data elements required by the GSEs for 1- to 4-family mortgage loans to be purchased by the GSEs. ULDD standards are included in the MISMO data standards.

SMALL BUSINESS REVIEW PANEL AND COST OF CREDIT CONSULTATION FOR HOME MORTGAGE DISCLOSURE ACT (HMDA) RULEMAKING

DISCUSSION ISSUES FOR SMALL ENTITY REPRESENTATIVES

To help frame the small entity representatives' discussion of issues and cost of credit matters during the upcoming Small Business Review Panel (Panel) meeting, we are providing a list of questions on which the Consumer Financial Protection Bureau (Bureau) seeks your advice, input, and recommendations. As you think about the questions below, you may find it helpful to refer to the "Outline of Proposals Under Consideration and Alternatives Considered" ("Outline of Proposals") enclosed with this document.

Please note that the questions are designed to assist you in identifying the type of information you may need to participate effectively in the discussion with the Panel and other small entity representatives. We recognize that some of these questions may not apply to you or your business. When a topic is relevant to you, please discuss it based on your own experience or your knowledge of the experience of other small entities in your same line of business. It would also be useful to the discussion to provide specific examples of issues that have arisen in your HMDA data collection and reporting activities.

The Panel would like to understand the potential economic impacts of the particular proposals under consideration by the Bureau discussed in the Outline of Proposals. The Panel's understanding would be enhanced if you can provide a general sense of the type and amount of any costs of complying with existing HMDA requirements, as well as estimates of costs for the proposals under consideration. Some of the questions suggest ways in which you might want to consider these costs as you prepare for the general discussion. The Bureau welcomes any quantitative information you may choose to provide in response to those questions, either during the meeting or afterward, but those questions should not be treated as data requests. While company-specific information would be helpful to the discussion, we understand that you may wish to frame your response in a manner that protects your company's proprietary information, as your responses may be included in a public report.

As you prepare for the discussion please consider the following general issues:

- The potential effects of the proposed requirement and alternatives on your company's systems, operations, staff resources, and compliance costs.
- The amount of time you would need to make changes to your systems or operations, train your staff, or take other actions you believe would be required in order to comply with the proposals under consideration.
- The number or percentage of transactions conducted by your company that may be impacted by the proposals under consideration.
- The potential costs and benefits for your company.
- Based on any direct knowledge or experience you may have, how your or other small companies' anticipated compliance costs may differ from those of larger companies, and the characteristics of small companies compared to larger companies that may contribute to these differences.

I. HMDA Infrastructure and Processes

As the Bureau developed the proposals under consideration, it reviewed the current HMDA compliance processes of financial institutions (FIs) of various sizes to gain a better understanding of their HMDA reporting procedures and infrastructure, as well as the costs of HMDA compliance. The Bureau identified 18 operational steps that FIs use to gather and report HMDA data, which can be grouped into four primary tasks: data collection; data reporting and re-submission; related compliance and internal audits; and HMDA-specific supervisory exam preparation and assistance.

The Small Business Review Panel will help the Bureau to expand our understanding of the processes and IT infrastructure small FIs use to collect and report HMDA data. To the extent applicable, the Bureau will assess the impact of each proposal under consideration on the 18 operational steps we've identified. As you consider each question, please think about how you currently meet or would meet the proposal under consideration and identify which of the 18 operational steps below would be impacted, what changes to your processes and systems would be required to meet the requirements under consideration, and any costs and benefits associated with implementation.

18 HMDA Operational Steps (for collecting and reporting HMDA data)		
Data collection	Step 1	Transcribing data
	Step 2	Resolving reportability questions
	Step 3	Transfer data to HMS
Reporting and re-submission	Step 4	Complete geocoding data
	Step 5	Standard annual edit and internal check
	Step 6	Researching questions
	Step 7	Resolving question responses
	Step 8	Checking post-submission edits
	Step 9	Filing post-submission documents
	Step 10	Creating public LAR
	Step 11	Distributing public LAR
	Step 12	Distributing disclosure report

18 HMDA Operational Steps (for collecting and reporting HMDA data)		
	Step 13	HMS /geocoding software
Audits	Step 14	Training
	Step 15	Internal audit
	Step 16	External audit
Exams	Step 17	Exam prep
	Step 18	Exam assistance

Assessment of Existing HMDA Operations

The Bureau has identified that small FIs generally collect and report HMDA data in one of two ways. *One*, some small FIs use a manual process in which the loan officer collects HMDA data from the consumer's application and inputs the data by hand into a spreadsheet each month. The HMDA records are then submitted to the government's data processor using the Federal Financial Institutions Examination Council's (FFIEC) HMDA Data Entry Software (DES). *Two*, other small FIs may input loan application data into loan origination systems (LOS) and a vendor-provided HMDA management system (HMS) then pulls the LOS data into the HMS. The annual HMDA filing is then submitted to the agencies via an e-mail from the HMS or is exported to DES and submitted through that software. The Bureau seeks information about your HMDA compliance systems and processes, and whether they are the same as or different than one of these processes.

1. How do you currently collect and report HMDA data? Is your compliance process manual or automated? What tools and resources are used to fulfill the HMDA requirements?
    a. If your process is manual, do you type loan data into the HMDA DES? Are edit checks conducted manually?
    b. If your process is automated, do you store data on spreadsheets and in HMDA DES? Do you use one LOS and HMS or do you use multiple systems and software?
    c. Do you use both a third-party HMS and DES to prepare and submit HMDA data?
    d. Are your systems integrated? If so, is the integration only forward (i.e., LOS to HMS) or both forward and backward (i.e., your edits update your LOS)?
2. Referring to the chart on page 2, do the 18 operational steps accurately reflect your institution's HMDA compliance process?
    a. Are there other steps you take that are not identified in the chart above? Are there steps identified in the chart that are not part of your compliance process?

b. What are the most difficult and/or costly operational steps for HMDA compliance? What are those costs in terms of staff time, wages, and other expenses?
c. Which operational steps are least costly? What are those costs in terms of staff time, wages, and other expenses?

3. When was the last time you updated your HMDA processes and systems, what were the drivers for change, and what actions were required?
   a. Which of the required services and products were provided by your own staff and which were obtained from external sources?
   b. What were the costs of updating your processes and systems in terms of dollars and staff time? If outside vendors are used, how might they pass on costs associated with updates to you?
   c. What would be your normal schedule for the next update of the processes and systems used for HMDA reporting?
4. How much staff time do you estimate is spent on HMDA compliance annually? What are the costs associated with HMDA compliance? If outside vendors are used, how is pricing for services structured and how are price increases passed on to you? How often are vendor contracts renegotiated?
5. On average, how much staff time do you estimate is required to complete an individual loan application register (LAR) record? What are those costs in terms of wages and other expenses for each LAR record?

II. OPERATIONS MODERNIZATION

The Bureau's HMDA rulemaking will implement amendments made to HMDA by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), and is also an opportunity to review, streamline, and modernize HMDA operations. As part of this effort, the Bureau is considering proposing changes that it believes would improve the HMDA reporting requirements and processes with respect to geocoding, LAR submissions and edits, and technical assistance and issue resolution.

A. Geocoding

For most reportable transactions, Regulation C requires FIs to report the Metropolitan Statistical Area (MSA) or Metropolitan division (MD), state, county, and census tract codes for the property pledged or proposed to be pledged as collateral for a loan or loan application. To reduce burden, the Bureau is considering a proposal that would require FIs to provide the property address or latitude/longitude coordinate in the HMDA LAR submission and geocoding would become an operation shared with or performed by the government.

1. How do you currently generate the geocodes for HMDA loans (e.g., FFIEC tool, vendor software, proprietary software)? How much time does it take to geocode a basic LAR record or, if applicable, a batch of LAR records? What are the type and amount of costs currently associated with generating such geocodes?
2. If you have experienced problems where a geocode returned from custom or vendor-provided software does not match the geocode from the government, please describe the

problems you experienced and what you estimate to be the costs of remedying such problems?
3. Referring to the chart on page 2, which operational step(s) would be impacted by this proposal? How might your operations be impacted? Would you continue to geocode data for internal analyses if the government assumed geocoding responsibility for HMDA?
4. What would be the one-time systems or processing adjustments, if any, to start generating a LAR with a property address instead of geocoded data?

B. Submission and Editing Improvements

The Bureau is considering changes to the HMDA data submission process by allowing certain edit flags to align more closely with loan types. This change would enhance the efficiency of the edit process by preventing the same edits from being raised multiple times. The Bureau is also considering upgrades to the HMDA DES such as moving DES to the web, which would mean that FIs would no longer need to download and install updates and would allow FIs to use the software from multiple terminals. In addition, the Bureau is considering allowing third-party HMDA management software to integrate with government back-end systems through an API.

1. How would the proposal under consideration impact your operations and systems? Please describe any changes you believe would be required and the amount and type of any costs associated with those changes.
2. Would the proposed changes improve efficiency or result in other benefits?
3. Would there be any one-time costs to implement the Bureau's proposed changes to the HMDA submission process? If so, please describe the amount and type of costs that you anticipate.
4. How many LAR records did you submit last year? On average, how many errors were identified for each LAR submission?
    a. What are the costs associated with responding to incorrect error messages (i.e., false positives) in terms of staff time, wages, and other expenses?
    b. Does your HMDA submission process rely solely on FFIEC edits? If not, please describe the nature of any additional custom edits that you employ.
    c. Are HMDA completeness checks only conducted in DES, or does your LOS also include HMDA completeness checks?
5. If you use a third-party HMS, how would your operations be affected if that system integrated directly with government systems?

C. Technical Assistance

Currently, the FFIEC provides written guidance and regulatory updates in the form of the "HMDA Getting It Right Guide," FAQs, a glossary of terms, and an annual newsletter. The FFIEC also provides technical assistance through an e-mail box and telephone mailbox. The Bureau understands that multiple sources of technical and interpretive guidance are difficult for FIs to work with and is considering how to provide more centralized HMDA guidance.

1. What are the types of issues or problems for which you typically seek technical assistance?
2. How often do you require technical assistance for HMDA-related matters?
3. How much time do you spend resolving HMDA-related issues on an annual or monthly basis? What are your costs in terms of staff time, wages and other expenses related to resolving HMDA-related issues on an annual or monthly basis?
4. To the extent applicable, please describe any challenges you have experienced in obtaining technical assistance for HMDA?
5. What type(s) of technical assistance would be most useful for your business? What would be the impact on your operations and costs?

III. DATA STANDARDS AND DATA POINTS

A. Adoption of a New Data Standard

To the greatest extent practicable, the Bureau is considering a proposal to align the HMDA data point definitions with existing data point descriptions in MISMO/ULDD, the data standard required by Fannie Mae and Freddie Mac for purchased loans.

1. Do you currently sell loans to Fannie Mae or Freddie Mac? If so, how do you currently collect and report loan information to them? What custom or vendor software do you use for submitting loan and appraisal data when selling loans to the GSEs?
2. Would aligning the HMDA data points with MISMO/ULDD standards require an upgrade to or replacement of your existing system? Is your LOS vendor MISMO-compliant?
3. What do you estimate are the one-time costs to prepare for the transition to the proposed MISMO/ULDD data standards, such as legal, compliance, software and hardware development and training?
4. What benefits or efficiencies do you think will be realized with the adoption of the MISMO/ULDD data standards for HMDA reporting?

B. Proposed New Data Points

The Bureau is considering a number of new and revised data points (data variables) that are either required or suggested by the Dodd-Frank Act, or that the Bureau believes are needed to fill existing information gaps in furtherance of the HMDA purposes. The data points under consideration are grouped into the following categories: (1) existing Regulation C requirements; (2) improvements and technical revisions to current Regulation C requirements; (3) data points specifically identified in the Dodd-Frank Act amendments to HMDA (including some adopted as the Bureau may determine to be appropriate); and (4) additional data points that target existing gaps in the mortgage loan information currently collected and are consistent with the purposes of HMDA. See Section III and Appendix A in the Outline of Proposals for a complete list and discussion of data point proposals under consideration.

1. For each of the proposed new or revised data points listed in Section III of the Outline of Proposals, please tell us: (a) whether you currently collect or retain the information for

other purposes; (b) the method you use to collect the information and the form in which it is retained; (c) the source of the information; (d) the purpose for which you collect the information; and (e) whether you currently report this information to any regulatory agency or industry organization.

2. Why might different variables have different compliance costs? Which variables present the greatest collection and reporting challenges?
3. Does the source of the data variable's definition matter? In other words, is there an impact on costs if the definition aligns with what is used in MISMO/ULDD or another existing regulation, or if the Bureau adopts a new definition altogether?
4. For each data point listed above where you do not currently collect and retain information, describe any changes that each of the new or revised data points being considered will require in your systems, operations, and processes and the type and estimated amount of additional cost you would occur if you were required to collect this information.
5. The Bureau seeks the following information about specific data point proposals under consideration:
   a. Are there ever instances in which you do not have an address for a dwelling used to secure a loan? If so, how often might this happen in a given year and what information do you report in such instances? How do you geocode the property in such instances?
   b. To what extent do you use financial institution entity identifiers for purposes other than HMDA? What is the source for any such entity identifiers, how do you obtain the number, and what are the associated costs?
   c. Do you use an automated underwriting system (AUS) to evaluate applications? If so, how do you handle loan applications referred for further review by the AUS? On average, how many times might you process a single application through your AUS system or multiple AUS systems?
   d. How do you characterize and categorize different application channels? Does the application channel affect pricing or other loan terms? If so, how? How does the application channel affect underwriting procedures or policies? How do financial institutions maintain information about application channels?
   e. Do you collect information about whether a multifamily property is deed restricted for an affordable housing program? If so, what would be the least burdensome way to report that information (e.g., flag, identification of specific program)?

IV. THE MODIFIED LAR APPLICATION REGISTER

Protecting consumer privacy is a significant priority for the Bureau in implementing HMDA. HMDA requires that financial institutions must make available to the public, upon request, a modified loan application register in the form the Bureau prescribes by regulation. HMDA requires the Bureau to require modification of items that will be made available to the public in order to protect the privacy interests of individual applicants or borrowers, and also mandates that the Bureau require deletions from the modified LAR to protect lenders from liability under state and federal privacy laws.

Regulation C currently requires financial institutions to delete three data points from its modified LAR before making it available to the public: the application or loan number, the date that the application was received, and the date action was taken. In addition to deleting these three fields, the Bureau is considering proposing that financial institutions modify or delete data points that may raise privacy concerns including, but not limited to, credit score and age.

1. How will the proposals under consideration impact your systems and operations? What are the amount and type of costs associated with any changes that may be needed to your systems and operations?
2. How many requests for a modified LAR do you receive each year for each Metropolitan Statistical Area or Metropolitan Division? What is the current cost to you to comply with each LAR request? How much do you charge consumers for each LAR request?
3. What process do you currently use to delete data fields from the modified LAR before it is made available to the public? What do you estimate to be the time and cost associated with the deletion of each required field in creating the modified LAR? What do you estimate to be the time and cost associated with each new deletion from the modified LAR that is under consideration by the Bureau?

V. COVERAGE AND SCOPE

A. Transactional Coverage

Regulation C currently requires FIs to report information regarding applications for, and originations and purchases of, closed- and open-end loans made for one of three purposes: home purchase, home improvement, or refinancing. Regulation C also provides for optional reporting of home equity lines of credit (HELOCs) made in whole or in part for the purpose of home improvement or home purchase. The Bureau is considering proposing to establish a more streamlined, bright-lined approach and require FIs to report HMDA data for all applications for and originations and purchases of dwelling-secured loans. In effect, this would: (1) eliminate reporting of non-dwelling secured home improvement loans; (2) capture all closed-end home equity loans (HELs); (3) capture all HELOCs; and (4) capture all reverse mortgages.

1. Please describe the changes, if any, that the proposal under consideration will require in your operational steps, systems, and processes, and any costs or benefits associated with those changes.
2. How many reportable applications and loan originations did you process last year? What percentage of total reportable applications and loan originations were not secured by a dwelling?
3. How many dwelling-secured loans did you originate in 2013? How many loans did you originate in 2013 that are secured by property other than a dwelling?
4. How many applications (non-originated) and loan originations did you complete in 2013 for the loan types below? Were any of these loan types excluded from your HMDA reporting?
   a. HELOCs
   b. Closed-end home equity loans
   c. Reverse mortgages

    d. Unsecured home improvement loans
5. How many pre-approvals and pre-qualifications each did you process in 2013?

B. Institutional Coverage

Currently, whether a FI is required to report under HMDA is determined by coverage tests based on loan volume, asset size, geographic location, and whether the subject loans are federally related. These tests differ depending on whether the FI is a depository institution (i.e., bank, savings association, or credit union) or a non-depository institution (i.e., mortgage company). To simplify the coverage tests, the Bureau is considering proposing a single, consistent minimum loan volume threshold for HMDA coverage for both DIs and non-DIs. The Bureau is considering proposing implementing a minimum loan threshold volume test where lenders who originate 25 or more closed-end first-lien home purchase or refinance loans in a given year would be required to report HMDA data. Because it is a statutory requirement, the existing annually adjusted asset volume threshold that triggers HMDA applicability for depository institutions (currently $43.0M in assets) would continue to apply.

1. How would the proposals under consideration impact your operations and systems? What type and amount of costs and benefits do you believe you would incur as a result of the proposal under consideration?
2. Hypothetically, if the loan volume threshold proposal under consideration were in effect, would you be required to submit HMDA data for calendar year 2013?
3. How many applications did you receive in 2013 that did not result in a loan origination? What are the costs associated with HMDA compliance for loan applications received, but not originated?
4. What types of loans should count towards the 25-loan threshold, including HELs and HELOCs, which typically are not first-lien products, and reverse mortgages?

C. Definition of Application

The Bureau has considered changes to Regulation C to clarify the definition for reportable applications and whether preapprovals should be excluded from the definition. Although the Bureau is disinclined to change the current requirements, it is interested in feedback on whether clarification of the definition of application would be useful, as well as the relative benefits and costs of reporting preapproval data.

1. What criteria do you use to determine whether you have received a reportable application?
2. Do you face any challenges in identifying whether a consumer request constitutes an application? If yes, what are those challenges? How much time does it add to the process to address these challenges?
3. How many requests for preapprovals did you receive in 2013?
4. How do you distinguish between requests for preapproval and a mortgage application?

VI. ADDITIONAL FEEDBACK

1. Are there any feasible alternatives to the proposals under consideration that would minimize any significant economic impact on your business while accomplishing HMDA's statutory mandates and objectives?
2. Are there any federal or state rules that you believe may duplicate, overlap, or conflict with the proposals under consideration?

VII. COST OF CREDIT

The proposals under consideration would apply to any consumer credit transaction secured by a residential dwelling or a residential property that includes a dwelling. Thus, while these are loans that are used primarily for personal, family, or household purposes, the proposals under consideration would also cover certain dwelling-secured loans used for business purposes.

1. Look back at the preceding topics under consideration.
   a. Which proposals, if any, do you believe may impact the cost of credit for small entities? Why might this occur?
   b. Are there feasible alternatives to any of the proposals that may minimize the impact on the cost of credit for small entities while accomplishing the statutory objectives addressed by the proposals under consideration?
2. Do you extend consumer mortgage loans that are used secondarily to finance a small business?
   a. If so, what percentage of your consumer loans falls into that category, i.e., loans used secondarily for business purposes by a small business? What is the average amount of the credit extended on such loans? What percentage of the credit extended is actually used for a business purpose?
   b. Would the proposals under consideration cause you to increase the rates or fees you charge for such credit? If yes, please describe the increase that you anticipate, your basis for anticipating that increase, and any feasible alternatives to the proposals under consideration you would recommend to minimize that increase.
   c. Do you believe that borrowers could instead obtain home-secured business loans (i.e., a home-secured loan used primarily for business purposes) from you or another lender?
3. For non-DIs: In the past year, have you taken out a consumer mortgage loan that you also used secondarily to finance your small business?
   a. If so, what percentage of your business costs did you fund through such credit?
   b. Do you believe that the proposals under consideration would cause you to pay higher rates or fees for such loans? If yes, why might this occur?
   c. As an alternative to this type of credit, could you obtain a home-secured business loan (*i.e.*, a home-secured loan used primarily for business purposes)?

FACT SHEET: SMALL BUSINESS REVIEW PANEL PROCESS

What is a Small Business Review Panel?

A Small Business Review Panel is a means by which the Consumer Financial Protection Bureau ("CFPB") can obtain input from small businesses that are likely to be directly affected by a regulation that the CFPB may issue. Under the law, when a rule under development may have a significant economic impact on a substantial number of small entities, representatives from the CFPB, the Chief Counsel for Advocacy of the Small Business Administration (SBA), and the Office of Management and Budget's Office of Information and Regulatory Affairs form a Review Panel. The Panel meets with a selected group of representatives from small businesses. During this outreach meeting, small businesses provide the Panel with important feedback on the potential economic impacts of complying with proposed regulations. They may also provide feedback on regulatory options under consideration and regulatory alternatives to minimize these impacts.

What is the Role of Small Businesses in the Review Panel Process?

Prior to a scheduled Panel outreach meeting, the CFPB distributes outreach materials and a list of the selected small businesses and their representatives to each meeting participant. The outreach materials typically contain:

- information on the background of the proposed rule under development;
- an overview of the proposed rule or regulatory options under consideration;
- other information that will enable small business representatives to provide meaningful comments on the likely economic impacts of the proposed rule and advice on potential alternatives; and
- a list of questions and issues on which the CFPB will seek small business input at the Panel outreach meeting.

During the Panel outreach meeting, the CFPB reviews the regulatory proposals and options or alternatives under consideration with the participating small business representatives. The Panel may ask the representatives to help identify other federal regulations that may overlap, duplicate, or conflict with the CFPB's proposed rule. The Panel then discusses and obtains input from small businesses on the anticipated compliance requirements and costs of the proposed rule. In addition, the Panel solicits advice regarding potential regulatory alternatives that would minimize any significant economic impacts of the proposed rule on small businesses while accomplishing the objectives of applicable statutes. The CFPB may also solicit feedback from small businesses on how the proposed rule may impact the cost of credit for small entities and ways to minimize any such impact. In addition to providing verbal comments on these issues during the Panel's outreach meeting, small businesses that are selected to participate in a Panel outreach meeting will be provided an opportunity to submit written comments.

How Does the Review Panel Use the Input Provided by Small Businesses?

Within 60 days of convening, the Review Panel issues a report on the input received from small businesses during the panel process. The report also contains the Panel's findings on the potential economic impacts of a regulation on small businesses and any significant alternatives that accomplish the objectives of the rule while minimizing such impacts. Copies or summaries of any written comments provided by participating small business representatives may also be included with the Panel's report. Once the proposed rule is published, the Panel's final report will be placed in the public rulemaking record.

The CFPB discusses and considers the Panel's report and the comments and advice provided by small businesses as it prepares the proposed rule. Once the rule is proposed, any small businesses or organizations, including those that participated in the panel outreach meeting, may submit formal written comments during the public comment period.

How Are Small Businesses Selected to Meet with a Small Business Review Panel?

The CFPB, in consultation with the SBA, selects and appoints individuals to represent categories of small entities likely to be subject to the requirements of a rule under development.

A "small entity" may be a small business, a small organization, or a small government, as defined by the Regulatory Flexibility Act. The definition of "small business" varies by industry. Information and guidance on the definition and industry size standards that apply to small businesses is available through the SBA's website at http://www.sba.gov/size. Representatives of small organizations that are not-for-profit enterprises and are independently owned and operated and not dominant in their field are also eligible to meet with the Panel if their organizations will be subject to the proposed rule under development.

In selecting representatives, the CFPB first determines the types of small entities (e.g., small businesses, small organizations, and small government jurisdictions) that are likely to be directly subject to the requirements of a rule under development. The CFPB then develops a list of potential individuals to represent the interests of small entities at the Panel outreach meeting. Final representatives will be designated by the CFPB after consultation with the SBA.

CFPB staff contacts each potential representative to confirm small entity status and the representative's willingness and availability to participate in a Panel outreach meeting. During this initial contact, the CFPB provides potential representatives with general information on the background and purpose of the Panel review process and information about logistical and scheduling matters. Small businesses may participate in the Panel outreach meeting in person or by teleconference, but generally travel and participate in the process at their own expense.

While the exact number of potential representatives selected will vary according to the nature of each rule, typically 15 to 20 small business representatives are selected to meet with the Panel.

Where Can Small Businesses Obtain More Information?

Additional information on matters relating the Small Business Panel Review process is available from the following sources:

- The Office of Advocacy of the U.S. Small Business Administration (SBA) http://www.sba.gov/advocacy
- The Office of Advocacy of the SBA: The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) http://www.sba.gov/advocacy/825
- SBA Size Standards for Small Businesses http://www.sba.gov/size

APPENDIX C: MATERIALS FOR PREMEETING CALLS WITH SERS

Materials Circulated in Advance of Conference Calls:

- February 20. 2014
- February 25, 2014

DISCUSSION TOPICS FOR FEBRUARY TELECONFERENCES

TELECONFERENCE NO. 1: FEBRUARY 20, 2014

I. 18 Component Tasks Regarding HMDA Data

As the Bureau developed the proposals under consideration, it reviewed the current HMDA compliance processes of financial institutions (FIs) of various sizes to gain a better understanding of their HMDA reporting procedures and infrastructure, as well as the costs of HMDA compliance. In doing so, the Bureau identified 18 operational tasks that FIs use to gather and report HMDA data, which can be grouped into four primary tasks: data collection; data reporting and re-submission; related compliance and internal audits; and HMDA-specific supervisory exam preparation and assistance. These 18 HMDA Operational Steps are listed in the materials emailed to the SERs on February 7; please refer to the tables on pages 2-3 of the Discussion Issues for Small Entities (Discussion Issues) and page 29 of the Outline of Proposals under Consideration and Alternatives Considered (Outline of Proposals).

This characterization of HMDA compliance tasks allows the Bureau to break down the various operational costs into manageable segments for analyses and is crucial to our current approach to evaluate both the baseline costs and cost impact of the proposals under consideration on FIs. We would like SERs to assist us in expanding and deepening our understanding of the processes and IT infrastructure that small FIs use to collect and report HMDA data. In particular, we would like SERs to review their HMDA processes and compare them with this high-level characterization. The information you provide will help us check in broad terms whether this characterization of the HMDA processes can serve as a conceptual framework for us to understand the HMDA operations of most small entities.

<u>Materials to review</u>: Outline of Proposals at pages 7-9, 28-30; Discussion Issues at pages 2-4.

1. Are there other steps you take that are not identified in the chart outlining the 18 operational steps? Are there steps identified in the chart that are not part of your compliance process?
2. What are the most difficult and/or costly operational steps for HMDA compliance? What are those costs in terms of staff time, wages, and other expenses?
3. Which operational steps are least costly? What are those costs in terms of staff time, wages, and other expenses?

<u>Additional follow-up</u>: To complete our understanding of HMDA operations, in addition to reviewing the conceptual framework and tasks, we encourage each SER to provide quantitative information on the baseline cost for his or her company of each step or task, such as the number of the FTEs devoted to each step in the last year, the average hourly wage of these staff, and the IT system costs for performing those tasks.

After establishing the baseline costs, think about how your company currently meets or would meet the requirements of the proposals under consideration and which of the 18 operational steps would be impacted, what changes to your processes and systems would be needed to implement the proposals under consideration, and any costs and benefits associated with implementation. Again, the Bureau is interested in quantitative information regarding the cost increases or cost savings of each step or task that may result from the potential changes (e.g., additional or reduced number of the FTEs devoted to each step, and increased IT system cost for performing those tasks). This additional information may be provided during the teleconference, if you have it available and time permitting, or in written comments submitted after the outreach session in March. If you prefer to keep of your cost data confidential, please indicate that at the time you provide it.

II. Assigning Small Entities to Tiers of Complexity of Operations

During the Bureau's prior interviews with financial institutions, the Bureau also identified seven key aspects or dimensions of HMDA compliance operations that were significant drivers of ongoing compliance costs. These seven dimensions are: the reporting system used; the degree of system integration; the degree of system automation; the tools for geocoding, for performing completeness checks, and for performing edits; and the compliance program.

The Bureau found that a given financial institution would tend to have simpler or more complex compliance operations across all seven of these key dimensions of HMDA operations. In other words, as a general matter, if a given financial institution had less system integration, then it would tend to also use less automation, simpler tools for geocoding, etc. It was generally not the case that a financial institution would use less complex approaches on one dimension of operations and more complex approaches on another. This allowed the Bureau to classify FIs into three broad tiers according to the overall level of complexity of their compliance operations.

Table 1 in the Outline of Proposals (see page 27) summarizes the characteristics of the three tiers of FIs. Tier 1 FIs have the highest level of complexity in compliance operations, while Tier 2 FIs and Tier 3 FIs have the middle level or lowest level of complexity in compliance operations, respectively. The Bureau seeks input regarding this general categorization of FIs for purposes of its impact analyses. The Bureau would also like each SER to identify, across all seven main cost drivers, which tier best characterizes the HMDA operations of his or her company.

Materials to review: Outline of Proposals at pages at 7-9, 26-28; Discussion Issues at pages 3-4.

1. How do you currently collect and report HMDA data? What tools and resources are used to fulfill the HMDA requirements? In particular, do you use DES or a third-party HMS? Or do you use both?
    a. If you use DES, do you manually type loan data into the DES? Or, do you enter data into an LOS, manually check for accuracy and import into DES?
    b. If you use an HMS, do you manually type data into the HMS? Or, do you transmit data from your LOS, manually check for accuracy and import into HMS? Or, does your HMS import data directly from your LOS?
2. Are your HMS and LOS systems integrated? If so, does your HMS write data back to your LOS or is the integration only one-way?

3. How do you currently generate the geocodes for HMDA loans (e.g., FFIEC tool, vendor software, proprietary software)? Do you do them one by one or in batches?
4. Does your HMDA submission process rely solely on FFIEC edits? If not, please describe the nature of any additional custom edits that you employ.
5. Are HMDA completeness checks only conducted in DES, or does your HMS also include HMDA completeness checks?
6. Do you have an internal HMDA compliance program and dedicated staff?

III. Overview of Data Points

The Dodd-Frank Act amended HMDA to add new data reporting requirements and enhance certain existing ones. As part of this rulemaking, the Bureau is comprehensively reviewing all current data points in Regulation C, carefully examining each data point specifically mentioned in the Dodd-Frank Act, and considering proposals to collect other data points to fill gaps where additional information could be useful to better understand the HMDA data and further the HMDA purposes. The data points under consideration are summarized in the tables in the Outline of Proposals on pages 14-15. A complete description of each data point under consideration may be found in the Outline of Proposals at pages 15-19 and in Appendix A of the Outline of Proposals (pages 44-68). Please review the potential proposals and consider whether new HMDA data points are already in your LOS or would require new collection protocols. The substance of the proposals under consideration related to data points will be discussed during the outreach meeting on March 6, 2014.

Materials to review: Outline of Proposals at pages 13-19, Appendix A (pages 44-68); Discussion Issues at pages 6-7.

DISCUSSION TOPICS FOR FEBRUARY TELECONFERENCES

TELECONFERENCE NO. 2: FEBRUARY 25, 2014

I. MISMO/ULDD

The Bureau is considering aligning HMDA data requirements to the greatest extent practicable with industry-defined mortgage data standards adopted by the Mortgage Industry Standards Maintenance Organization (MISMO), and where possible to the Uniform Loan Delivery Dataset (ULDD), a subset of MISMO developed by Fannie Mae and Freddie Mac (collectively, the GSEs). The Bureau believes that alignment of HMDA data requirements with well-established data standards already in use by a significant portion of the mortgage market will allow financial institutions (FIs) to more easily comply with HMDA reporting requirements and would improve the quality of the data collected and reported.

Standards for loan-level mortgage data can be conceptualized as containing the following components: the data point, or data element, is assigned a name and container location within the MISMO model; the data definition describes the data point; the enumerations identify the values that can be assigned to the data point. A standard may also describe how data are transmitted between entities (e.g., CSV, XML). For example:

MISMO Data Point	Definition	Enumerations
Property Usage Type	Specifies the usage intention of the borrower for the property	1. Investment 2. Primary Residence 3. Second Home 4. Other

With respect to the proposal under consideration, the Bureau would like to ensure that each SER has a clear understanding of the MISMO/ULDD data standards. A complete description of the MISMO/ULDD data standards and the Bureau's proposals under consideration may be found on pages 19-21 of the Outline of Proposals under Consideration and Alternatives Considered (Outline of Proposals) and on page 6 of the Discussion Issues for Small Entity Representatives (Discussion Issues). Please review these materials and be prepared to discuss any questions you have about MISMO/ULDD or other data standards and the Bureau's proposal. We will discuss the proposal under consideration, including the readiness of small entities that do not currently sell to the GSEs to transition to a standard such as MISMO/ULDD and the anticipated costs associated with adopting new data standards, during the March 6, 2014 outreach meeting.

Materials to review: Outline of Proposals at pages 19-21; Discussion Issues at page 6.

1. What is your familiarity with MISMO/ULDD standards?
2. Do you maintain data in MISMO/ULDD-compatible format?
    a. Do you sell loans to the GSEs or any other investors that require you to follow the MISMO/ULDD data standards?
    b. If so, do you use a vendor to prepare the information for those loans?
3. Would aligning HMDA with MISMO or another industry data standard improve your compliance process? Why or why not?

II. Modernization of HMDA Operations

The Bureau is using this rulemaking as an opportunity to review, streamline, and modernize HMDA operations. The Bureau understands that there are many steps in the HMDA data collection, submission, and reporting process and that some may be particularly challenging for small institutions. The Bureau is consulting with other federal agencies about how to facilitate the improvements to the HMDA process. The Bureau has identified the following areas for improvement and is interested in hearing your additional thoughts and feedback:

- Restructuring the geocoding process to allow batch geocoding and to shift some of the burden of geocoding from FIs to the government (see Outline of Proposals at pages 21-22);
- Creating an improved web-based Data Entry Software (DES) that accommodates multiple users and data entry from multiple locations (see Outline of Proposals at page 22);
- Streamlining the submission and editing processes to make them more efficient by refining the edits to correspond to the data reported, so that certain flags will align more closely with the loan types to which those edit flags are relevant (see Outline of Proposals at pages 22-23); and
- Expanding and integrating HMDA help sources to provide more centralized guidance (see Outline of Proposals at page 23).

<u>Materials to review</u>: Outline of Proposals at pages 21-23; Discussion Issues at pages 4-6.

1. What kinds of operational improvements are most needed?
2. What challenges do you face with the current geocoding tools (e.g., FFIEC tool, vendor software, proprietary software)? How much time and what are the cost components and amounts to: Geocode a basic LAR record or, if applicable, a batch of LAR records? Deal with private geocoding results that do not match the government system results?
3. Do you currently use the DES software on the FFIEC website? If so, what are the biggest challenges you face using the tool? How would you like to use a software interface? Would the proposal to create web-based DES impact your operations and systems?
4. What would you like to see change in the submission and editing processes?
    a. How many LAR records did you submit last year? On average, how many errors were identified for each LAR submission?
    b. What are the costs associated with responding to incorrect error messages (i.e., false positives) in terms of staff time, wages, and other expenses?
5. What, if any, challenges have you faced using the HMDA Help Line or written guidance on HMDA? What kind of technical assistance would you like to have?

III. <u>One-time Costs</u>

All of the proposals under consideration would impose some one-time costs on small entity HMDA reporters. Management, legal, and compliance personnel will likely take time to learn new reporting requirements and assess legal and compliance risks. FIs that use vendors for

HMDA compliance will incur one-time costs associated with software installation, troubleshooting, and testing. The Bureau is aware that these activities will take time and that the costs may be sensitive to the amount of time allowed to come into compliance. FIs that maintain their own reporting systems will incur one-time costs to develop, prepare, and implement necessary modifications to those systems. In all cases, FIs will need to update training materials to reflect new requirements and activities and may incur certain one-time costs to provide initial training to employees.

In general, the Bureau believes the one-time costs due to the proposed changes will mostly be attributable to three sources: one-time IT update costs; training costs; and compliance procedures costs. The Bureau seeks input on the reasonableness of breaking down the main drivers of one-time costs into these three components. The Bureau also seeks quantitative information on the anticipated magnitude of these one-time costs.

Materials to review: Outline of Proposals at pages 30-31; Discussion Issues at pages 4-6.

1. When was the last time you updated your HMDA compliance processes and systems, what were the drivers for change, and what actions were required?
    a. Which of the required process and system updates were implemented by your own staff and which were obtained from external sources?
    b. What were the costs of updating your processes and systems in terms of dollars and staff time?
    c. What would be your normal schedule for the next update of the processes and systems used for HMDA reporting?
    d. If outside vendors are used for the next update, do you expect they would pass on the costs associated with the update to you?
2. What do you estimate to be the one-time costs of any or all of the proposals under consideration?
    a. What are the amounts and types of costs associated with any changes that may be needed to your systems and operations?
    b. What would be your expected one-time training costs to prepare for implementing a revised HMDA rule (e.g., full time employees, training, and traveling costs)?
    c. What would be your expected one-time costs of revising manuals, guidelines, compliance procedures, and marketing material leading up to implementing a revised HMDA rule?
    d. Are there other primary drivers or components of one-time costs that should be considered by the Bureau in its analyses? If so, please identify those components and your expected costs for such components.

APPENDIX D: POWERPOINT SLIDES FOR MARCH 6 MEETING

Home Mortgage Disclosure Act (HMDA) Rulemaking

SBREFA Panel Outreach Meeting

March 6, 2014

Note: This document was used in support of a live discussion. As such, it does not necessarily express the entirety of that discussion nor the relative emphasis of topics therein.

Consumer Financial Protection Bureau

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Topic 6: Impact on the Cost of Business Credit	3:15 – 3:45
Additional Feedback/Wrap-Up	3:45 – 5:00

Welcome and Introductions

- CFPB Welcome and Opening Remarks
  - Remarks by Director Cordray
- Introduction of SBREFA Panel
- Introduction of Small Entity Representatives and Agency Staff

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General Overview: SBREFA and Your Role in the Process

What Is SBREFA?

- The Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA") requires the CFPB to form a Small Business Review Panel to seek input directly from small entities for any proposed rule that may have a significant economic impact on a substantial number of small entities.

- A Small Business Review Panel consists of the representatives from:
  - the CFPB;
  - the Chief Counsel for Advocacy of the Small Business Administration ("SBA"); and
  - the Office of Management and Budget's Office of Information and Regulatory Affairs ("OMB").

General Overview: SBREFA and Your Role in the Process

Your Role in the SBREFA Process

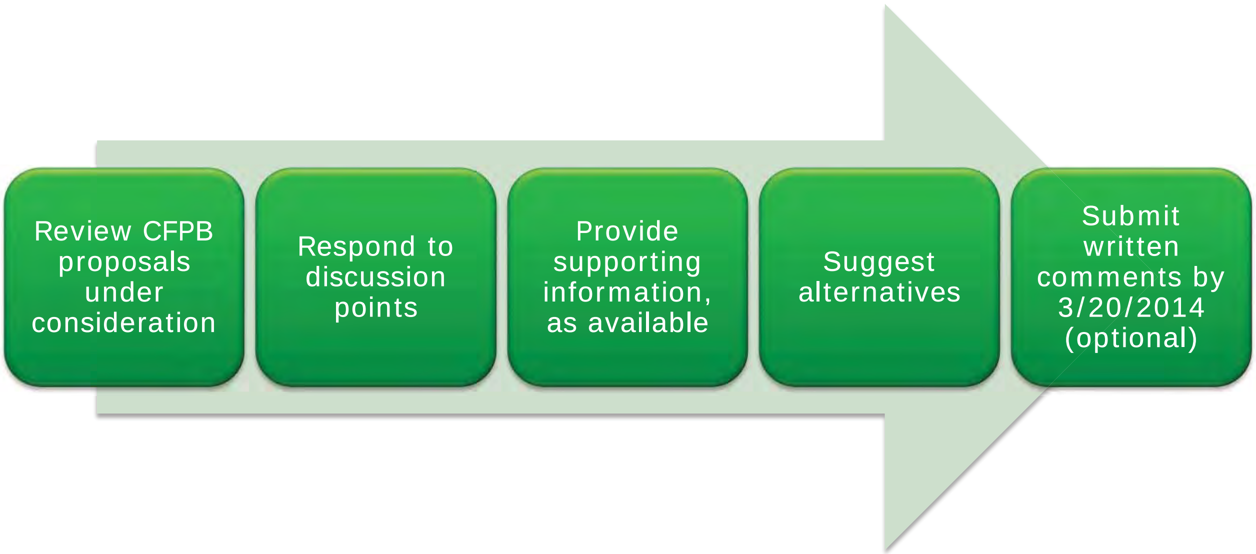
You have been selected as a small entity representative ("SER") for the Home Mortgage Disclosure Act (HMDA) rulemaking.

- A SER is a representative of a small entity that will likely be subject to the requirements of a proposed rule under consideration by the CFPB.

- SERs' participation in the rulemaking process helps to ensure that the CFPB is made aware of the concerns and issues specific to small entities.

- The Panel (CFPB, SBA, and OMB) uses your input to prepare a report that includes your verbal feedback and written comments and the Panel's findings on alternatives to minimize costs and burden on small entities.
  - The report is made part of the public rulemaking record and is considered by the CFPB as it develops its proposed rule.

General Overview: SBREFA and Your Role in the Process



General Overview: Background on HMDA and Regulation C

- Congress enacted HMDA in 1975 as part of an antipoverty initiative to counter redlining and the effects of disinvestment by depository institutions, and to encourage private reinvestment in our nation's cities.
  - HMDA and its implementing regulation, Regulation C, have been amended from time to time and now includes identification of possible discriminatory lending practices among its three purposes.
- At its core, HMDA is a data collection statute.
  - Lenders who meet certain coverage tests must report to their federal supervisory agencies detailed loan-level information about mortgage applications and loans at the transaction level.
  - The HMDA data are made public by both the lenders and the government on a calendar year basis, with some redactions for consumer privacy.
- HMDA is now considered to be the preeminent data source for regulators, local governments, industry, researchers, and consumer advocates studying and analyzing trends in the mortgage markets.

General Overview: Background on HMDA and Regulation C

- In 2010, the Dodd-Frank Act (DFA) amended HMDA to require the collection and reporting of additional data points, including information about borrowers (age and credit score), information about loan features and pricing, and, as the Bureau determines to be appropriate, unique identifiers for loans, properties, and loan originators.
  - The DFA also transferred rulemaking authority for HMDA from the Federal Reserve Board to the Bureau.

General Overview: Summary of Small Entity Operations

Data collection	Step 1	Transcribing data
	Step 2	Resolving reportability questions
	Step 3	Transfer data to HMS
Reporting and re-submission	Step 4	Complete geocoding data
	Step 5	Standard annual edit and internal check
	Step 6	Researching questions
	Step 7	Resolving question responses
	Step 8	Checking post-submission edits
	Step 9	Filing post-submission documents
	Step 10	Creating public LAR
	Step 11	Distributing public LAR
	Step 12	Distributing disclosure report
	Step 13	HMS /geocoding software
Audits	Step 14	Training
	Step 15	Internal audit
	Step 16	External audit
Exams	Step 17	Exam prep
	Step 18	Exam assistance

General Overview: Summary of Small Entity Operations

WHAT WE LEARNED ABOUT THE 18 OPERATIONAL STEPS DURING SBREFA PRE-MEETINGS

- These 18 operational steps generally reflect the processes SERs are using to gather and report data under HMDA.
- Some minor differences do exist.
  - Some SERs combine certain steps.
  - Some SERs conduct steps in a different order.

General Overview: Summary of Small Entity Operations

- Outreach efforts identified level of complexity as a main driver of HMDA compliance costs.
- We reviewed the complexity of lender operations in 7 categories, or dimensions.
- We developed three tiers of representative lender types reflecting low, medium and high complexity.
  - Tiers allow us to capture relationship between complexity and HMDA compliance costs.
  - In the SBREFA materials, we developed different assumptions for each tier.
  - Based on our assumptions, we developed different cost estimates for each tier.
- In our analyses for the proposed rule, we expect to associate every HMDA reporter with a tier.

General Overview: Summary of Small Entity Operations

Assigning Financial Institutions to Tiers: What We Learned About Tiers During SBREFA Pre-Meetings

- The seven dimensions we have identified accurately capture financial institution's level of complexity.
- Most SERs noted that their business models corresponded fairly closely to one tier.
  - 7 SERs identified their institutions as Tier 2
  - 10 SERs identified their institutions as Tier 3
  - 2 SERs identified their institutions as Tiers 1 and 2

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Topic 1: Alignment with an Industry Data Standard

CFPB PROPOSALS UNDER CONSIDERATION

MISMO/ULDD

- The Bureau believes that HMDA compliance and data submission can be made easier by aligning the requirements of Regulation C to existing industry standards for collecting and transmitting mortgage data.
- The Bureau is considering a proposal that would align the HMDA data requirements with the widely used Mortgage Industry Standards Maintenance Organization (MISMO) standards for residential mortgages, including the Uniform Loan Delivery Dataset (ULDD) that is used in the delivery of loans to the GSEs.
- To develop this proposed alignment, the Bureau is analyzing each data point currently in Regulation C and those under consideration to determine whether corresponding data points already exist in MISMO.
  - The Bureau would create a definition when one doesn't exist or does not meet the Bureau's purposes in MISMO or ULDD.

Topic 1: Alignment with an Industry Data Standard

DISCUSSION TOPICS

MISMO/ULDD

1. If you currently sell to Fannie Mae and Freddie Mac, how do you currently collect and report the loan information that they require?
2. If you do not sell to the GSEs:
   a. What would you need to do to comply with the proposed alignment with MISMO/ULDD?
   b. Is your current LOS vendor MISMO-compliant?
   c. What do you estimate are the one-time costs to transition to the proposed data standards, such as legal, compliance, software and hardware development, and training?
3. Would alignment with an industry data standard such as MISMO benefit any of your other business operations?

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Topic 2: Data Points

CFPB PROPOSALS UNDER CONSIDERATION

- The HMDA rulemaking is being conducted to implement the Dodd-Frank Act amendments to HMDA and to improve the quality and utility of data reported and disclosed under HMDA.
- Currently, creditors are required to report basic information about the loan or application (*e.g.*, amount, type, purpose and characteristics), the borrower (*e.g.*, race, gender, and income), and census tract information for the property related to the loan.
- The DFA, which was adopted in the wake of a mortgage market crisis that threatened the broader national economy, specifically identifies new items of information that the Bureau may or must require financial institutions to report pursuant to HMDA, including, for example, more detail on the terms of the loan, the entity extending the loan, and the borrower.
- The DFA also authorized the Bureau to mandate "such other information as the Bureau may require." The Bureau is considering using this authority to propose revisions to existing Regulation C requirements and new data points that target existing gaps in the loan information currently collected.

Topic 2: Data Points | Current Regulation C Reporting

Application / Loan Information	• Application/loan ID number • Date the application was received • Type of loan or application • Purpose of loan or application • Request for preapproval and result of preapproval request • Application/loan amount • Action taken type • Date of action taken • Type of purchaser of loan • Rate spread (higher-priced loans) • HOEPA status • Lien status • Reasons for denial (at FI's option)

Property Information	• Property type
	• Owner occupancy
	• Property location, by:
	  • MSA or Metropolitan Division
	  • State
	  • County, and
	  • Census tract

Applicant / Borrower Information	• Race • Ethnicity • Sex • Gross annual income

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Topic 2: Data Points

Dodd-Frank Act Additions and Additional Data Points	
• Loan term • ARM introductory period • Nonamortizing features (balloon, I/O, negative amortization) • Property value • Security type (real or personal property) • Manufactured property interest (own, cooperative, leasehold) • Total units • Multifamily affordable housing • Age • AUS results • Loan originator ID	• Application channel (retail or wholesale) • Credit score • Denial reasons • Total points and fees • Total origination charges • Discount points • Risk-adjusted interest rate • Interest rate • Prepayment penalty term • Debt-to-income ratio • Combined loan-to-value ratio • Qualified Mortgage status flag • Reverse mortgage flag • HELOC flag

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Topic 2: Data Points

DISCUSSION TOPICS

1. For each of the new or revised data points, please tell us:
   a. Whether you currently collect or retain the information for other purposes;
   b. The method you use to collect the information and the form in which it is retained; and
   c. The purpose for which you collect the information, including whether you currently report this information to any regulatory agency, investors, or industry organization.
2. Which of the new data points present the greatest collection and reporting challenges?
   a. What do you expect to be the costs of reporting these data points?
   b. What changes will be required in your systems, operations, and processes?
3. Which of the new data points do you not currently collect or retain? What do you estimate to be the additional cost if you were required to collect and retain this data?

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Topic 3: Modernization of the HMDA Process

PROPOSALS UNDER CONSIDERATION

The Bureau is using this rulemaking as an opportunity to review, streamline, and modernize HMDA operations and is considering the following proposals to improve the HMDA data collection, submission, and reporting processes:

1) Restructuring the geocoding process to allow batch geocoding and to shift some of the burden of geocoding from financial institutions (FIs) to the government;

2) Creating an improved web-based Data Entry Software (DES) that accommodates multiple users and data entry from multiple locations;

3) Streamlining the submission and editing processes to make them more efficient by refining the edits to correspond to the data reported, so that certain flags will align more closely with the loan types to which those edit flags are relevant; and

4) Expanding and integrating HMDA help sources to provide more centralized guidance.

Topic 3: Modernization of the HMDA Process

DISCUSSION TOPICS

1. Given the challenges with current geocoding tools (*e.g.*, FFIEC tool, vendor software, proprietary software), what changes related to geocoding would be most helpful to you?
   a. How much time or cost would be saved if you reported property address and the government geocoded the information?
   b. Do you have other suggestions for improving the geocoding process?
   c. Would you continue to geocode data for internal purposes if the government assumed geocoding responsibility? If so, why?

2. For those who use the DES software on the FFIEC website, what kinds of changes would be the most helpful? How much time or cost would be saved with these changes?
   a. Would you use software that allowed you to manage your data before final validation?
   b. If you have an LOS provider but manually enter data into DES, why is this? If your LOS could transfer data directly into a new DES with additional data management tools, would this be helpful?

Topic 3: Modernization of the HMDA Process

DISCUSSION TOPICS (CONT'D)

3. What changes would you like to see in the submission and editing processes?
   a. Would it be helpful to allow for uploading and testing HMDA submissions for edits in more real time?
   b. Would it help if FIs were able to contribute to edits?
   c. Are there other improvements you would like to see?
   d. What is the time or cost savings associated with these improvements?

4. What kind of technical assistance (*e.g.*, HMDA Help) would be most useful for your business?

5. If you use a third-party HMDA Management Software (HMS), how would your operations be affected if that system is integrated directly with government systems? Would it be helpful to provide APIs for vendor-supported software? How much time or cost could be saved?

6. What kinds of operational improvements are most needed?

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Topic 4: Institutional and Transactional Coverage

CFPB PROPOSALS UNDER CONSIDERATION

INSTITUTIONAL COVERAGE

Under HMDA and Regulation C, whether a financial institution is required to compile and report data is determined by coverage tests based on assets, loan volume, geographic location, and, in some cases, whether the financial institution makes loans that are federally related. The coverage tests differ for depository and nondepository institutions.

To simplify the tests to determine who must report HMDA data, the Bureau is considering proposing a uniform loan-volume threshold test where:

- DIs and non-DIs that originate 25 or more home purchase or refinance loans in a given year would be required to report HMDA data.
- The statutory asset threshold applicable to DIs would continue to apply.

Topic 4: Institutional and Transactional Coverage

CFPB PROPOSALS UNDER CONSIDERATION (CONT'D)

TRANSACTIONAL COVERAGE

Regulation C currently requires FIs to report information regarding the applications for, and originations and purchases of, closed- and open-end loans made for home purchase, home improvement, or refinancing purposes. Regulation C also provides for optional reporting of HELOCs made in connection with home improvement or home purchases.

The CFPB is considering proposing to require FIs to report HMDA data for all applications and originations and purchases of dwelling-secured loans. In effect, this proposal would:

- Eliminate reporting of non-dwelling secured home improvement loans;
- Capture all HELs;
- Capture all HELOCs by eliminating optional reporting; and
- Capture all reverse mortgages.

Topic 4: Institutional and Transactional Coverage

DISCUSSION TOPICS

INSTITUTIONAL COVERAGE

1. Hypothetically, if the loan volume threshold under consideration were in effect, would you have been required to submit HMDA data for calendar year 2013?
2. How many applications did you receive in 2013 that did not result in a loan origination? What are the costs associated HMDA compliance for loan applications received, but not originated?
3. What types of loans should count towards the 25-loan threshold (e.g., HELOCs)?
4. How would this 25-loan proposal under consideration impact your operations and systems? What type and amount of costs and benefits do you believe you would incur as a result of the proposal under consideration?

Topic 4: Institutional and Transactional Coverage

DISCUSSION TOPICS (CONT'D)

TRANSACTIONAL COVERAGE

1. How many reportable loan applications and originations did you process in 2013? What percentage of these transactions were not secured by a dwelling?
2. How many applications and loan originations did you complete in 2013 for the loan types below? Were any of these loan types excluded from your HMDA reporting?
   a. HELOCS
   b. Closed-end home equity loans
   c. Reverse mortgages
   d. Unsecured home improvement loans
3. Please describe the changes, if any, that the proposal to require FIs to report HMDA data for dwelling-secured loans, purchases and applications will require in your operational systems and processes, and any costs or benefits associated with those changes?

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Topic 5: Modified LAR

CFPB PROPOSALS UNDER CONSIDERATION

Protecting consumer privacy is a significant priority for the Bureau in implementing HMDA. Today's discussion will focus on HMDA data collection requirements.

- HMDA directs the Bureau to require modification of LAR data that will be made available to the public in order to protect the privacy interests of individual applicants or borrowers.
- The statute also mandates that the Bureau require deletions from the modified LAR, as it may determine to be appropriate, to protect lenders from liability under federal and state privacy laws.
- Regulation C currently requires financial institutions to delete three data points from their modified LARs before making them available to the public: the application or loan number, the date the application was received, and the date action was taken.

The Bureau is considering proposing that FIs continue to report loan amount and income rounded to the nearest thousand and delete the three fields that Regulation C currently requires to be deleted. The Bureau is also considering proposing that institutions delete or otherwise modify additional data points including, but not limited to, credit score and age.

Topic 5: Modified LAR

DISCUSSION TOPICS

1. How will the proposals under consideration regarding the modified LAR impact your systems and operations? What are the amounts and types of costs associated with any changes that may be needed for your systems and operations?
2. What process do you currently use to delete data fields from the modified LAR before it is made available to the public? What do you estimate to be the time and cost associated with each new deletion from the modified LAR that is under consideration by the Bureau?

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Topic 6: Cost of Credit Analysis

CFPB PROPOSAL UNDER CONSIDERATION

The Regulatory Flexibility Act requires the CFPB to consult with small entity representatives regarding any projected increase in the cost of credit for small entities that would result from the proposals under consideration, and on alternatives that minimize any such increase.

The proposals under consideration would apply to any consumer credit transaction secured by a residential dwelling or a residential property that includes a dwelling. And while some of these loans may be used for business purposes, the CFPB has no evidence that the proposals under consideration would result in an increase in the cost of credit for small entities.

Topic 6: Cost of Credit Analysis

DISCUSSION TOPICS

1. Look back at the proceeding topics under consideration.
   a. Which proposals, if any, do you believe may impact the cost of credit for small entities? Please explain why.
   b. Are there feasible alternatives to any of the proposals that may minimize the impact on the cost of credit for small entities while accomplishing the statutory objectives addressed by the proposals under consideration?

OUTREACH AGENDA / SCHEDULE

Item	Time (min)
Welcome and Introductions	8:30 – 8:45
General Overview: SBREFA and Your Role in the SBREFA Process Background on HMDA and Regulation C Summary of Small Entity Operations	8:45 – 9:00
Topic 1: Alignment with an Industry Data Standard	9:00 – 9:15
Topic 2: Data Points	9:15 – 10:30
Morning Break	10:30 – 10:45
Topic 2: Data Points (Cont'd)	10:45 – 11:15
Topic 3: Modernization of the HMDA Process	11:15 – 12:15
Lunch Break	12:15 – 1:15
SBA Remarks: Dr. Winslow Sargeant	1:15 – 1:30
Topic 4: Institutional and Transactional Coverage	1:30 – 2:30
Topic 5: Modified LAR	2:30 – 3:00
Afternoon Break	3:00 – 3:15
Topic 6: Impact on the Cost of Business Credit	3:15 – 3:45
Additional Feedback/Wrap-Up	3:45 – 5:00

ADDITIONAL FEEDBACK

DISCUSSION TOPICS

1. Do you have any additional comments or feedback on any of the proposals under consideration?
2. Are there any feasible alternatives to the proposals under consideration that we have not yet discussed that you believe would minimize any significant economic impact on your business while accomplishing the CFPB's statutory mandate and objectives?
3. Are there any other federal rules that you believe may duplicate, overlap or conflict with the proposals under consideration?
4. How long would your business or organization need to make any changes to systems or operations or to take any other actions that you believe would be required to comply with the proposals under consideration?

WRAP-UP

CLOSING REMARKS **DAN SOKOLOV, CFPB**

- Written comments from small entity representatives (optional) are due no later than **March 20, 2014.**

- Please email any written comments to Rachel Ross at: CFPB_HMDA_SBREFA@cfpb.gov

- Your written comments will be attached to the Panel Report, which will be made part of the public rulemaking record.