

October 15, 2019

VIA ELECTRONIC DELIVERY

The Honorable Kathleen L. Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Docket No. CFPB-2019-0020; Home Mortgage Disclosure (Regulation C) Data Points and Coverage

Dear Director Kraninger:

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 230 state and nationally chartered banks, savings banks, and savings and loan associations located in communities throughout the State. WBA appreciates the opportunity to submit comments to the Consumer Financial Protection Bureau (the Bureau) regarding the Advance Notice of Proposed Rulemaking (ANPR) on Home Mortgage Disclosure (Regulation C) Data Points and Coverage.

Background

On May 8, 2019, the Bureau published in the *Federal Register* the ANPR soliciting comments relating to the data points the Bureau's October 2015 final rule (2015 HMDA Rule) implementing the Home Mortgage Disclosure Act (HMDA) added to Regulation C or revised to require additional information. The ANPR also solicits comments relating to the requirement that institutions report certain business- or commercial-purpose transactions under Regulation C. The comment period was initially slated to expire on July 8, 2019, but was extended to October 15, 2019. WBA applauds the Bureau's decision to open the discussion concerning ongoing challenges financial institutions have experienced in attempting to fulfill the requirements implemented under Regulations C pursuant to the 2015 HMDA Rule.

Data Points

HMDA requires certain depository institutions and for-profit nondepository institutions to collect, record, and report data about originations and purchases of mortgage loans, as well as mortgage loan applications that do not result in originations (for example, applications that are denied or withdrawn). By its statutory terms, HMDA defines "mortgage loan" as (1) "a loan which is secured by residential real property," or (2) a "home improvement loan." The purposes of HMDA are to provide the public with loan data that can be used: (i) To help determine whether financial institutions are serving the housing needs of their communities; (ii) to assist public officials in distributing public sector investment so as to attract private investment to areas where it is needed; and (iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. Prior to the enactment of the Dodd-

Frank Wall Street Reform and Consumer Protection Act (DFA), Regulation C required reporting of 22 data points and allowed for optional reporting of reasons an institution denied an application. The DFA mandated 13 additional data points.

The DFA also provided the Bureau with discretionary authority to adopt additional data points. In total, 14 data points were adopted beyond the data points already in place or mandated by the DFA. As a result, 49 data points are currently being collected—well more than twice the number being collected prior to the DFA.

Doubling the number of data points has had an adverse impact, as described below, on both members who are HMDA reporters, and those who are not, given a large proportion of the latter category sell loans on the secondary market and must collect such data in order to meet the secondary market's requirements. The impact is also felt by institutions of all sizes, and is particularly challenging for community banks.

WBA members have reported the time and monetary costs associated with expansion of HMDA data points has been significant and burdensome—from the need to hire and train additional staff, to the purchase of technology, to hiring third party vendors to assist in implementation of the 2015 HMDA Rule. Further, our members note the year-in and year-out costs continue to increase in order to maintain compliance and data accuracy related to data collection, scrubbing, analysis, and reporting. While WBA understands that certain data points are mandated by the DFA, we urge the Bureau to eliminate the data points that were added under the Bureau's discretionary authority to reduce the burden encountered by WBA members.

If the Bureau is unwilling to eliminate all such data points, we strongly urge the elimination of the following data points for which the burden of collection outweighs any HMDA benefit and/or does not serve HMDA's purpose:

- 1) Free-form Race and Ethnicity—the free-form categories allow applicants to fill-in blanks with whatever word(s) they choose. They have caused considerable confusion among borrowers and lenders alike, resulting in inconsistent and inaccurate collection;
- 2) Sub-ethnicity—these “disaggregated” categories have caused considerable confusion among borrowers and lenders alike, resulting in inconsistent and inaccurate collection;
- 3) Number of Multifamily Affordable Units—this data is difficult to collect and does not aid the lender's understanding of the borrower's creditworthiness;
- 4) Manufactured Home Secured Property and Land Property Interests—this data is difficult to collect, does not aid the lender's understanding of the borrower's creditworthiness, and is often inaccurate because of the lender's need to rely on information provided by the borrower;
- 5) Automated Underwriting System (AUS) Used and Result—Some lenders use multiple AUSs, while others may use an AUS at different or multiple points during the underwriting process making it difficult if not impossible to reconcile the diversity of AUS usage;

- 6) Origination Charges Paid by Borrower—TRID requires disclosure of this information no matter who pays such charges, whereas, HMDA requires collection of origination charges paid by the borrower. Collection and reporting of this information twice is burdensome, and could lead to errors or inaccurate data comparisons due to inconsistent requirements between the two regulatory schemes in play;
- 7) Discount Points—lender practices vary in terms of how discount points are handled and disclosed under TRID—sometimes they built-in to an interest rate rather than being paid as a separate charge. Collection and reporting of this data will provide inaccurate comparisons under HMDA;
- 8) Lender Credits—lender practices vary in terms of how lender credits are handled under TRID—some are general credits, others are specific credits, and yet others are credits for tolerance violations. Collection and reporting of this data will provide inaccurate comparisons under HMDA;
- 9) Free-form Credit Scoring Model—this data point has also caused considerable confusion among lenders because the lender can choose any word(s) to fill-in the blank, resulting in inconsistent and inaccurate collection;
- 10) DTI Ratio—this calculation is often manual, and is typically a moving target, changing throughout the lending process, leading to inconsistent and inaccurate information;
- 11) CLTV Ratio—like DTI, this calculation is often manual, and is typically a moving target, changing throughout the lending process, leading to inconsistent and inaccurate information.

Business and Commercial Loans

WBA urges the Bureau to eliminate collection and reporting on business and commercial loans, as a separate rulemaking pursuant to the DFA regarding business lending data will be undertaken for purposes of Regulation B. Having separate data collection under both Regulation B and Regulation C will create unnecessary burden and potential inconsistencies. In addition, very few of the data points under Regulation C apply to business and commercial loans. WBA looks forward to submitting comments on the Regulation B proposal, once published.

HELOCs

WBA acknowledges the Bureau's recent announcement to undertake a separate rulemaking addressing the exemption threshold for HELOCs, and the extension of the temporary transaction threshold for such transactions until its rulemaking is final. WBA looks forward to submitting comments on this matter, as well.

Privacy Concerns

WBA understands privacy concerns are being handled by the Bureau through a different process; however, it is impossible to separate those concerns from a discussion of the data points, particularly those that may infringe upon an individual's privacy (e.g. credit score,

income). This ANPR attempts to understand the costs and benefits of particular data points or the HMDA data collection regime generally, but does not consider the potential costs imposed on the individual consumer through the possible dissemination of sensitive non-public information.

Given the ease of consumer re-identification, the Bureau should assume that information disclosed under HMDA will eventually be linked to individual applicants. This assumption is only strengthened by the constant advances in machine learning, artificial intelligence and experience applying these technologies to the HMDA dataset. WBA indeed appreciates the prudent redactions from the public data set the Bureau has already made with these concerns in mind and encourage a holistic review of the public benefits versus the individual risks of public disclosure.

WBA members take their data protection responsibilities extremely seriously and endeavor to protect all consumer information in their possession. Any discussion of the costs and benefits of reporting specific HMDA data points should also be mindful of the reality that centralizing data from different systems increases the risk of harm from a data breach. HMDA requires pulling information from different systems into a centralized file to report the aggregated data set. This process increases both the value of that particular data set to malicious actors and the possible impacts of a data breach both at rest and in transmission. The potential costs and benefits of reporting HMDA data should attempt to quantify—or at least acknowledge—this potential risk.

Finally, WBA looks forward to submitting comments to the Bureau when it proposes rulemaking on the public disclosure of HMDA data to find a better approach that meets the goals of HMDA while protecting consumers.

Conclusion

Once again, WBA applauds the Bureau's efforts to address ongoing challenges financial institutions have experienced in attempting to fulfill the requirements implemented under Regulations C pursuant to the 2015 HMDA Rule.

Sincerely,

Kristine Clevon
Vice President-Legal