Comment on Home Mortgage Disclosure Act Proposed Rulemaking

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October 29, 2014

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW.
Washington, DC 20552

Re: Docket No. CFPB–2014–0019/RIN 3170–AA10:
Home Mortgage Disclosure Act Proposed Rule

Dear Ms. Jackson:

People are always talking about the value of data about web browsing habits. They don’t talk nearly enough about the value of data about mortgage shopping habits. Regulators and researchers do not know nearly enough about how borrowers and lenders interact in the mortgage business — and the stakes are high, given that a home is often the biggest investment that a household ever makes. The Consumer Financial Protection Bureau is seeking to make some modest improvements to the federal government’s existing data collection pursuant to the Home Mortgage Disclosure Act (HMDA) through a proposed rule. These proposed improvements should be adopted.

Under this proposed rule, financial institutions generally would be required to report all closed-end loans, open-end lines of credit, and reverse mortgages secured by dwellings. Unsecured home improvement loans would no longer be reported. Thus, financial institutions would no longer be required to ascertain an applicant’s intended purpose for a dwelling-secured loan to determine if the loan is required to be reported under Regulation C, though they would still itemize dwelling-secured loans by different purpose when reporting. Certain types of loans would continue to be excluded from Regulation C requirements, including loans on unimproved land and temporary financing. Reverse mortgages and open-end lines of credit would be identified as such to allow for differentiation from other loan types. Further, many of the data points would be modified to take account of the characteristics of, and to clarify reporting requirements for different types of loans. The Bureau believes these proposals will
yield more consistent and useful data and better align Regulation C with the current housing finance market, 79 F.R. 51733.

This is a reasonable proposal. It increases the amount of information that is to be collected about important consumer products, such as reverse mortgages. It also increases the amount of important information it collects about all mortgages. At the same time, it releases lenders from having to determine borrowers’ intentions about how they will use their loan proceeds, something that can be hard to do and to document well. Finally, while the proposed rule raises some privacy concerns, the CFPB can address them. My more detailed comments follow.

**Increased Information**

HMDA’s usefulness has suffered because it excludes numerous consumer mortgages from its reporting requirements and because it collects incomplete information about the mortgages that it does reach. Mortgage products evolve rapidly and there is no principled reason to exclude some, such as reverse mortgages, from HMDA reporting. Indeed, the exclusion of certain mortgage products may incentivize lenders to originate more of those mortgages to avoid regulatory scrutiny of their book of business. That exclusion may also allow abusive terms to thrive longer than they would if such mortgage products were reportable because they remain under regulators’ radar for a longer period of time. The proposed rule aligns HMDA data collection with Mortgage Industry Standards Maintenance Organization standards for residential mortgages. This move toward consistent data standards can only help regulators keep pace with developments in the mortgage industry.

**Decreased Subjectivity**

Lenders are reasonably concerned about being subject to subjective standards. To the extent that regulators can avoid such standards, it is appropriate to do so. Subjective standards were often a bone of contention as states began enacting anti-predatory lending laws. Some subjective standards can be replaced by objective standards. Certainly, ascertaining a borrower’s intentions for the proceeds of a home loan has to be difficult for lenders. This aspect of the proposed rule is a responsible step in the direction of reduced subjectivity.

**Reasonable Privacy Protections**

The proposed rule demonstrates a sensitivity to the privacy concerns that result from collecting more data about individual mortgages. Some industry commentators have stated that privacy interests should trump data collection about the mortgage market. There is no reason to think that the CFPB cannot adequately balance the two concerns and achieve both goals simultaneously.

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The proposed rule should assist regulators in their efforts to appropriately regulate the residential mortgage market. The text of the final rule should be substantially the same as that of this proposed rule.

Sincerely,

[Signature]

David Reiss