October 29th, 2014

Reinvestment Partners
110 E. Geer
Durham, NC 27701

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

Comments from Reinvestment Partners on Proposed Rules to Amend Regulation C to implement amendments to the Home Mortgage Disclosure Act (“HMDA”) made by Section 1094 of the Dodd-Frank Wall Street Reform and Consumer Protection Ace (Dodd-Frank Act).

<u>RE: CFPB 2014-0019 or RIN 3170-AA10</u>

Dear Ms. Jackson:

Please accept the following comment on proposed amendments to the implementation of the Home Mortgage Disclosure Act.

Reinvestment Partners is a 501 c 3 agency located in Durham, North Carolina which advocates on behalf of low-income and other underserved communities in regard to their ability to access safe and sound financial products. To accomplish our mission of economic justice, we combine policy work with direct services and local community economic development.

In 2010, a paper by Adam Rust, Director of Research of Reinvestment Partners, was published in the Boston Federal Reserve’s “Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act. Rust’s paper was exclusively focused on how HMDA data might be re-organized to better implement the intentions of the Community Reinvestment Act in the new context of innovations that have occurred in the mortgage market since the Act’s inception. Later in the year, Rust testified at a hearing on HMDA reform held at the Federal Reserve Bank of Atlanta. *The paper and a transcript of his testimony are attached with our comment.*

There are Many Uses for HMDA Data

Reinvestment Partners has found many uses for HMDA data. As would be expected, we have used HMDA data for independent research and for direct engagement with mortgage lenders.

For many years, Reinvestment Partners was one of the participants in the Paying More for the American Dream research series. Over five years, seven different non-profit groups collaborated on the project. The PMFTAD series used HMDA to explore a number of different aspects of mortgage lending. The research was covered prominently in many national and regional media outlets.

HMDA data can serve as a reference point in meetings with banks. In a typical year, Reinvestment Partners provides an analysis of HMDA data to at least five different financial institutions. We have found that banks are much more willing to consider our comments when we can offer an analysis of their lending. The truth is that many banks make only a cursory review of their HMDA data. They are generally surprised when we can put together a unique review of their lending. In our experience, some of those meetings have resulted in immediate responses. When we can show that there are irregularities within specific MSAs, some banks will step back and review policies in those branches. When we can determine that there are significant disparities in cost, loan type, and approval rates across different borrower segments, they appreciate our input. When we can show that certain demographics are less likely to even make in inquiry about a potential application (fewer completed applications, fewer initial inquiries) relative to other banks in the same areas, it prompts concern.

But there are other uses that might be more surprising. Over time, we have contracted on behalf of a number of consulting groups who have been hired by counties and municipalities to conduct fair lending reviews. Some want an Analysis of Impediments and others are conducting a Needs Assessment. HMDA is a crucial tool in their research endeavors.

We have also used HMDA data as a means to evaluate banks in the creation of a socially-responsible investing index. We used HMDA data in part because there is no better source of data available to the public, but sometimes with misgivings. In many instances, HMDA data created false positives because of how it was built. We wanted to penalize institutions that originated high-cost loans. Unfortunately, HMDA data often obscured those instances. HMDA data defines high-cost according to the interest rate applied during the first month. Thus, it is blind to adjustable-rate, interest-only, and other examples of alternative loans. We have more to say on this topic, but the point relevant to this question is that while we used HMDA data, it was in many ways sub-optimal.

1) Information about the property securing the loan, such as construction method, property value, lien priority, the number of individual dwelling units in the property, and additional information about manufactured and multifamily housing.
2) Information about the features of the loan, such as additional pricing information, loan term, interest rate, introductory rate period, non-amortizing features, and the type of loan.
3) Certain unique identifiers, such as a universal loan identifier, property address, loan originator identifier, and a legal entity identifier for the financial institution.

C. Proposed Modifications to Disclosure and Reporting

We are very frustrated by the lack of timeliness in the release of HMDA data. Historically, data has been released in September for loans originated over the twelve months of the prior year. This means that we are exploring old data. Often, this undermines the credibility of our research conclusions. With few exceptions, media reportage has qualified our research to note that it covers loans which were as much as two years old. Beyond media, though, the slow release reduces the relevance of our findings. When financial markets began to crumble in 2008, we had to wait until September 2009 before the data was released. We commend the Bureau for proposing to release data on a quarterly basis. We understand that there are some who will argue that this creates a higher level of administrative burden. We are surprised to hear that some banks do not have the ability to produce outputs of their lending data in relatively short order. If the data is collected at the time of application, then lenders should be able to store it electronically.

We have faith that the CFPB's assertion that "HMDA compliance and data submission can be made easier and HMDA data quality improved by aligning requirements of Regulation C to the extent practicable with existing industry standards for collecting and transmitting mortgage data." See MISMO as an example of such a solution.

Compiling and Reporting of HMDA Data; Privacy Concerns

Many individuals have asserted that the new rules will compromise privacy. We recognize that individuals have strong rights to privacy. We believe that safeguarding privacy is a growing challenge in the context of the advancement of data collection in a digital era.

The most provocative question with respect to privacy in the proposed rules concerns the release of credit score data. Dodd-Frank calls for release of such information, although it is not clear on the specifics. We believe that a compromise can be reached which protects privacy, honors the copyright of FICO and other scoring agencies, and also realizes the needs of HMDA users.

Credit score data is important because it has become so central to how mortgage loans are underwritten. At present, conversations surrounding HMDA data are compromised by the absence of credit score data (along with the absence of LTV, debt-to-income, and down payment). Lacking it, lenders can attribute any discrepancy to data points that are not known. The result is a process where advocates must resort to making statements that they may not be entirely certain are valid, while lenders have to respond to criticisms that are sometimes unfounded. Everyone would benefit from transparency.

The Bureau has proposed a number of alternatives.

One proposal is to "mask" scores. In our opinion, this is an excellent idea. We do not feel that it is necessary to attempt to release actual scores. We believe that an acceptable alternative is to collapse discrete scores into ranges. Credit score "buckets" will provide more than enough in the way of utility for researchers. We believe that a normalized score which collapses credit score estimates in to a relative range within the spectrum of scores recorded by any particular model is effective. Such a system could produce a range from 1 to 100, for example, with each applicant characterized within a decile or quintile.

While we recognize that a restricted-access arrangement could address many concerns, we believe that it presents problems in implementation. We would generally disagree with a proposal to restrict access to credit-score data.

We do not support the aggregation of data. At one point, there was some hint that credit score data might not be reported at the level of the applicant, but instead upon some geographic level. For example, we heard that the Bureau might release average credit scores for individual zip codes. If that was the case, the credit score data would be virtually worthless. The average credit score in a zip code characterized by an average income (or a relative score to an MSA mean) would only lead to research full of complicated qualifications. It is absolutely vital that credit score data be associated on the level of the individual borrower.

The hard truth is that an expectation of privacy is now somewhat naïve, given the rise of what is known as “big data.” There are firms collecting hundreds of data points on individuals. Credit score data is part of their capture. They find it easy to offer because it is easy to get it from a variety of places: lenders, insurers, telephone companies, or even the bureaus themselves. Many attain it directly from banks and their subsidiaries. These companies collect data. Then, they append it to other data points. The end result is that third-parties have extensive information on most citizens, and they are more than willing to release it to any capable buyer. We are all evaluated for our “Customer Lifetime Value” and our “Share of Wallet.” It makes little difference to the privacy of mortgage applicants if HMDA data offers or does not offer one blunt manifestation of a credit score indicator.

Data Elements

New data elements will add much more clarity to the nature of lending. We are hopeful that the inclusion of credit scoring data will be complemented by new data points for underwriting and loan type factors. Specifically, we would like to see debt-to-income and loan-to-value added to the file to aid in understanding under-writing decisions. We would like to see new loan type descriptors which indicate if a loan had an adjustable rate of interest, if it was a “cash-out” refinancing, if it had a period with a discount rate of interest (the “2-28” or the “3-27”), or if it was negatively amortizing. These elements are less popular at the moment, but it is possible that the features of the subprime bubble could return. If they did, then HMDA would not be capable of informing researchers.

Without those data points, HMDA data can be more than vague. In fact, it can be misleading. Consider our analysis of the top lenders (by sum of capital devoted to lending as a share of market capitalization) in 2007. We included 61 different publicly-traded corporations in our analysis. Here is a list of the top five:

Ranking of top lenders to traditionally underserved communities, 2007

Lender	Low-income	Minority	Rural
Countrywide	1	1	1
First Horizon	2	2	3
National City	3	4	3
Huntington Bank	4	27	4

Washington Mutual	5	3	6

(Sum of low-cost mortgage loan amounts/market capitalization) Source: 2007 HMDA data

With the exception of Huntington, all of these lenders were focused on sub-prime mortgage lending. We know that most of their loans were ultimately high-cost. We know that the loans of National City, Washington Mutual, Countrywide, and First Horizon were much more likely to end up in foreclosure compared to the broader market. Three are no longer independent entities. HMDA data never revealed these problems. If it could not, then how was it serving the purposes that led to the CRA's passage?

Our point is that HMDA data must be re-written to communicate when loans are made with unusual characteristics. We can longer assume that the home mortgage is a homogenous product. There is no "plain vanilla" mortgage loan. HMDA data needs to acknowledge that fact.

Property Type for Manufactured Housing

Reinvestment Partners has been active in urging the Bureau to re-think how it characterizes reporting on loans for manufactured housing.

Reinvestment Partners has explored the nature of lending in manufactured housing communities extensively. In 2007, Adam Rust published "This is My Home: Challenges and Opportunities in Manufactured Housing." This book examined the problems that plague the sector. In our opinion, there is no better example of systematic redlining in practice today than what regularly occurs to borrowers living in any mobile home park. These borrowers pay higher interest rates, must submit to shorter loan terms, and receive far fewer consumer protections than do any other group of consumers. The process of disclosure is opaque and inconsistent.

Unfortunately, the current construction of HMDA data does nothing to relieve that. The most significant factor in the quality of a loan is the status of the property associated with the application. If a home is classified as real property, then generally a borrower can qualify for mainstream financing. If it is legally characterized as personal property, then its financing is closer in nature of a car loan. HMDA data currently notes the property type but it does nothing to clarify the rules under which the loan is classified with regard to it being real or personal property. The proposed rule will change this. We agree whole-heartedly with the Bureau's proposal.

The proper system is to add an additional category in property type. There should be a discrete indicator for homes that are classified as real property and a separate category for those that are classified as personal property.

In addition, we agree that the Bureau is right to take this moment to clarify the meaning of dwelling. The Bureau notes that some financial institutions have difficulty in determining if a property will be utilized as a dwelling. Generally, mortgage applicants have to indicate if they will be the occupants of a property. To assert an intent to reside in a home and then to rent it out can represent an act of fraud. The GSEs require higher down-payments and additional delivery fees to accept non-owner occupant mortgage loans. We believe that lenders know when they are not making a residential loan. The Bureau's proposal to rely upon HUD's definition of a manufactured home is logical. All HUD code homes come with a stamp on their exterior that identifies their status as such.

We would support the exclusion of loans made to manufactured homes that will not be used as residences, but we insist that it is well within the ability of lenders to make a determination of the intended use of a structure. We agree with their intent to exclude pre-1976 non-HUD code homes from the categorization of manufactured home. Some HUD-code manufactured homes are utilized not as residences but instead as offices. In some cases, school districts buy them to use as classrooms. But these purposes are hardly mysterious. This should not be a compliance challenge for lenders. Lenders should be able to determine where a home is delivered. If it goes to a construction site, then its purpose as a residence is fairly clear-cut.

We agree that recreational vehicles (which are designated as such by the Department of Housing and Urban Development) should not be considered dwellings and thus loans made for the purchase should not be reported in HMDA. The same is true for floating homes, campers, travel trailers (less than 40 feet in length), and park model recreational vehicles (but not park model homes) in our opinion. Loans for these properties should not be HMDA-reportable.

Parcel Identifier

Reinvestment Partners was one of the advocacy groups who strongly encouraged the Bureau to establish some kind of universal loan identifier. A Universal ID is a valuable tool. It would allow observers to track how loans perform. The Bureau has asked if a postal address is a satisfactory representation of a parcel identifier, as there may be some shortcomings to extracting parcel identifications from municipalities. We agree that a postal address would reduce the burden imposed upon financial institutions. A postal address would seem far preferable in the context of loans made for manufactured housing. In many instances, homes placed in mobile home parks are all located on the same parcel. But each generally has its own address.

Interest Rates 4 (a) 12

We would appreciate a system where the HMDA data indicated the spread between a loan's interest rate and the prime rate on the day of issuance. This would be significantly more useful than the current approach, as it would add a great deal of nuance to this data. We would like clarification on the choice of prime rate in lieu of others, though. We would expect that the most relevant point of comparison would be the 10-year Treasury ("TNX"). Most lenders use this number to price loans. By using prime rate, the Bureau would allow differences in the yield curve to add noise to the data. What if we were in a period where there was a downward-sloping yield curve? Similarly, would it not be reasonable to expect a higher difference in pricing when there was a steep upward-sloping yield curve?

The most important factor in the publication of interest rates has to do with how it interacts with the loan type. We strongly assert that ARMs and teaser-rate loans should require special consideration. Loans should be identified as ARMs and/or periodic discounts at the time of origination. If we had to pick one system, then we would ask that the highest possible rate of interest be utilized as the relevant interest rate. Thus, if a borrower took out a “2-28” loan with an initial rate of 2 percent and an ultimate rate of 5 percent at a moment when the prime rate was 1 percent, then the loan should be reported as 400 basis points above prime.

In conclusion, we support the efforts of the Bureau to reform the HMDA database. Thanks for the opportunity to comment.

Sincerely,

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