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October 24, 2014

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

Re: Amendments to the Home Mortgage Disclosure Act (HMDA); Docket No. CFPB-2014-0019 - RIN 3170-AA10

Dear Consumer Financial Protection Bureau:

The Housing Assistance Council (HAC) is pleased to have the opportunity to comment on the proposed amendments to the Home Mortgage Disclosure Act (HMDA); Docket No. CFPB-2014-0019 - RIN 3170-AA10. The Housing Assistance Council has been helping local organizations build affordable homes in rural America since 1971. HAC emphasizes local solutions, empowerment of the poor, reduced dependence, and self-help housing strategies. HAC assists in the development of both single- and multifamily homes and promotes affordable housing efforts for low-income rural families. With more than 40 years of service to public, nonprofit, and private organizations throughout the United States, HAC is uniquely positioned to provide comments and insights on HMDA's effectiveness in assessing and understanding rural mortgage markets.

The Bureau of Consumer Financial Protection (the Bureau) published for public comment a proposed rule amending 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 Act (Dodd-Frank Act). Consistent with section 1094 of the Dodd-Frank Act, the Bureau proposes to add several new reporting requirements and to clarify several existing requirements. The Bureau is also proposing changes to institutional and transactional coverage under Regulation C.

Congress enacted HMDA in 1975 as a way of protecting communities that may be denied access to credit markets. The law requires most depository and certain non-depository institutions to collect and publically disclose information on home loan applications and purchases. Thus, HMDA serves an important purpose in providing information on home lending activities, making it possible for the public at-large to identify potential areas of disinvestment and discrimination.

While the Bureau presents a substantial number of changes and enhancements to HMDA in the proposed rule, HAC's comments focus on two primary issues that are of great importance and consequence to rural borrowers and consumers of home mortgage financial products: 1) *the revised scope of HMDA reporting requirements*; and 2) *enhanced reporting and data collection for manufactured home loans.* The Housing Assistance Council also provides general comments on issues related to new and enhanced data collection for underwriting and mortgage loan characteristics. These issues directly impact HMDA's ability to provide useful information for rural America's home lending markets.

Proposed Changes To The Scope of HMDA Reporting Requirements

The Bureau is proposing to revise the threshold that determines which lending institutions are required to report through HMDA. The Bureau proposes to adjust HMDA's institutional coverage to adopt a uniform loan volume threshold of 25 loans applicable to all financial institutions (25-loan volume test). Under the proposal, depository and nondepository institutions that meet all of the other criteria for a "financial institution" would be required to report HMDA data if they originated at least 25 covered loans, excluding open-end lines of credit, in the preceding calendar year. Depository institutions would still be exempt if, among other things, they are below the minimum asset threshold or don't have a branch in a metropolitan area.

The Bureau states that the loan volume test would particularly improve the availability of data concerning the practices of nondepository institutions, where information is needed. The Bureau estimates that the proposed coverage criteria may increase the number of nondepository institutions covered through HMDA by as much as 40 percent and the number of reported originations and applications by nondepository institutions by as much as 6 percent.

HAC's Recommendation:

The Housing Assistance Council strongly recommends that the Bureau require reporting for all mortgage related activity regardless of institution type. As such, all depository and nondepository financial institutions should be required to report through HMDA if they originated at least one (1) "covered" mortgage loan in the preceding calendar year.

Rationale for Recommendation: One of the primary and longstanding shortcomings with HMDA has been its incomplete coverage and information for rural communities and markets. HMDA's current scope and reporting exemptions disproportionally impact small lenders that operate in rural communities. The proposed reporting coverage thresholds may exacerbate these already problematic reporting gaps especially in rural communities.

Using data from the past three available years of HMDA releases (2010–2012), the Housing Assistance Council estimates that approximately one-quarter, or more than 1,700 financial institutions currently reporting to HMDA would no longer provide information on their lending activity if the 25 loan threshold was instituted. While the number of loans from these potentially impacted reporters is relatively small, it is not insignificant. The level of reduced reporting would be disproportionate in rural communities. Using the same 3 year analysis period, HAC estimates that approximately one-fifth (19 percent) of all potentially nonreported loan records would come from rural communities, while only 15 percent of all HMDA reportings originate in rural areas. In addition, these potentially exempt loans are more likely to be classified as "high cost" (higher interest rate) or involve manufactured homes, both of which are more prevalent in rural communities.

Such lending volume exemptions are typically justified under the auspices of burdening small banks with limited resources. However, the degree to which there is a burden associated with HMDA compliance is highly debatable. The cost burden associated with similar CRA federal filing requirements have been estimated at an average of 10 burden hours per year.[1] Similarly, the costs for small bank CRA compliance are estimated to be 0.039 percent of an institution's assets.[2] These reporting exemptions for smaller lenders may have been plausible in 1975 when HMDA was created. But technological innovations and advances have substantially mitigated any digital or capacity divide that may have existed decades ago. The reality is that a financial institution with the capacity to extend a mortgage loan is likely already collecting and reporting data and information comparable to, or greater than, what HMDA requires. Finally, collecting, tracking, and reporting such data on lending activities is quite simply good and sound business practice. Quality data collection should be embraced as a fiduciary duty by any financial institution making mortgage loans.

HAC applauds the Bureau for proposing modifications regarding HMDA reporting requirements for nondepository lenders. We agree with the proposal to revise and simplify reporting for nondepository lenders, but believe that nondepository institutions should also be held to the current depository standard and report to HMDA if they originated at least one (1) "covered" mortgage loan in the preceding calendar year.

In concert with the proposed modifications to the volume of mortgage lending, the Housing Assistance Council requests that the Bureau revisit the metropolitan area and asset size reporting exemptions for lending institutions codified under 12 U.S. Code 2802 and CFR 12 § 1003.2. While the Housing Assistance Council fully understands that these exemptions are based in statute, we believe them to be outmoded and outdated requirements incongruous to a modern mortgage marketplace. These location and asset size exemptions disproportionally impact reporting for small lenders that operate in rural communities. For example, of the estimated 989 lending institutions with assets totaling

[1] Federal Register, May 28, 1999 (Volume 64, Number 103), pages 29083 through 29086
[2] Michael S. Barr, Community Reinvestment Emerging from the Housing Crisis, in Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act, A Joint Publication of the Federal Reserve Banks of Boston and San Francisco, February 2009, http://www.frbsf.org/publications/community/cra/index.html

less than the HMDA filing threshold, 70 percent are headquartered in rural counties.[3] The filing exemption for lenders with offices exclusively outside of metropolitan areas has an even larger impact. These institutions likely represent one of the only sources of credit in some communities. Ultimately, the picture of rural home lending is unclear due to limitations in reporting. The extent to which HMDA accurately captures rural lenders is currently undetermined, but many experts believe it to be lacking. According to a Federal Reserve Board report, these exceptions lead to significant distortions in the coverage of rural areas in HMDA. For these reasons, rural areas are often dropped from analysis of HMDA.[4] But to a larger extent, these exemptions contradict the ethos of HMDA's primary intent to *"determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. . . "*[5] With the current location and asset exemptions, HMDA is not filling this obligation in rural America. The Housing Assistance Council urges the Bureau to revisit and mitigate these gratuitous exemptions where possible.

The requirements to report HMDA data are less a burden on banks, than a disservice to rural communities and consumers if they are not adequately or reliably collected. In light of the glaring omissions and the impact on rural coverage, HAC recommends that all institutions who provide mortgage financing report lending data under HMDA, regardless of location, asset size, or lending volume.

Enhanced Reporting For Manufactured Home Lending

The Bureau is proposing to add and enhance HMDA data collection requirements for lending on manufactured homes. The Bureau believes that the unique nature of the manufactured home financing market warrants additional information reporting. The Bureau would expand HMDA to require financial institutions to report whether a manufactured home is legally classified as real or personal property. The reporting institution would also be required to identify whether the applicant or borrower owns the land on which the manufactured home is, or will be located, through a direct or indirect ownership interest, or paid or unpaid leasehold.

HAC's Recommendation:

The Housing Assistance Council strongly agrees with and supports the Bureau's proposal to enhance, increase, and improve reporting for manufactured home lending in HMDA. Specifically HAC recommends the collection of enhanced and new data points on the classification or real or personal property, and placement attributes for manufactured home loans reported through HMDA.

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[3] Housing Assistance Council. 2010. *What Are We Missing? HMDA Asset Excluded Filers*. Report Prepared for the US Department of Housing and Urban Development.
[4] Avery, Robert B., Kenneth P. Brevoort and Glenn B. Canner. 2007. Opportunities and issues in using HMDA data. *The Journal of Real Estate Research* 29(4): 352-379.
[5] 12 U.S. Code, Section 2801

Rationale for Recommendation: The Housing Assistance Council applauds the Bureau for its plan to increase and enhance information reported to HMDA on manufactured home lending. Manufactured homes – often referred to as mobile homes or trailers, are an overlooked and maligned segment of our nation's housing stock, and there is a corresponding dearth of information about this housing sector. Manufactured homes are an important source of housing for millions of Americans, especially those with lower incomes and in rural areas. There are approximately 7 million occupied manufactured homes in the U.S. More than half of all manufactured homes are located in rural communities around the country.

While the physical and structural attributes of manufactured homes have improved over the past few decades, issues related to the sale, finance, appraisal, and placement of this type of housing often remain problematic. Today the majority of manufactured homes are still financed with personal property, or "chattel," loans.[6] With shorter terms and higher interest rates, personal property loans are generally less beneficial for the consumer than more conventional mortgage financing. Exacerbating these finance issues, manufactured homes are typically sold at retail sales centers where salespersons or "dealers" receive commissions. In some cases, dealers resort to high-pressure sales tactics, trapping consumers into unaffordable loans.[7]

Publically available information on lending for manufactured homes is largely unknown. With the prevalence of personal property lending and the importance of this financing to manufactured housing, reporting of these specific loans should be required and publicly available through HMDA. Additionally, manufactured home loans and applications should indicate whether the loan/application was a personal property or real property (mortgage) loan. The inclusion of these updated and enhanced manufactured home data will provide a much more complete assessment of lending activity nationwide, and particularly in rural areas.

New Data on Underwriting Characteristics

The Bureau's proposed Rule would require collection and reporting on underwriting characteristics – many of which are mandated by the Dodd-Frank Act. The Bureau proposes requiring financial institutions to collect information about applicants related to the underwriting of their mortgage applications including, credit score, debt to income ratio, loan to value ratio and application channel (retail, wholesale, or correspondent channel).

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[6] U.S. Census Bureau, U.S. Department of Commerce. "Placements of New Manufactured Homes by Region and Size of Home: 1980-2011." Washington, DC: U.S. Census Bureau, n.d.

[7] Kathy Mitchell, et al. "In Over Our Heads: Predatory Lending and Fraud in Manufactured Housing." Consumers Union Southwest Regional Office Public Policy Series, Vol. 5, No. 1. Austin, TX: February 2002. http://www.consumersunion.org/pdf/mh/over/report.pdf

HAC's Position:

The Housing Assistance Council generally agrees with and supports the Bureau's proposal to collect additional information on underwriting characteristics related to borrowers including, credit score, debt to income ratio, loan to value ratio and application channel.

Rationale for Position: One primary shortcoming of HMDA is that it fails to collect important underwriting information such as the borrower's credit score, loan-to-value ratio, and debt-to-income ratio. Without this information, it is impossible to clearly identify disinvestment or discriminatory practices. Currently available HMDA research has indicated that rural residents typically receive more high-cost (high interest rate) loans than urban residents, and that rural minorities receive more high cost loans than rural whites.[8] This is an issue of great interest, particularly since some high-cost loans may likely be predatory in nature. Currently there is simply not enough information to further assess this issue with any specificity. Increased underwriting data would help research efforts and would greatly enhance HMDA's effectiveness.

New and Enhanced Data on Loan Characteristics

The Bureau's proposed rule would require collection and reporting on several new elements related to conditions of the mortgage loan including points and fees, origination charges, loan term, interest rate, introductory period qualified mortgage status, and an enhanced data collection on the reason for denial, rate spread, and HOEPA status indicators.

HAC's Position:

The Housing Assistance Council generally agrees with and supports the Bureau's proposal to collect new and enhanced information on loan conditions including, points and fees, origination charges, loan term, interest rate, introductory period qualified mortgage status, and improved reason for denial, rate spread, and HOEPA reporting.

Rationale for Position:

Publically available data on mortgage loans in rural areas is sparse. This makes rural housing markets extremely difficult to assess. Most information resources simply do not provide accessible, complete, or accurate loan performance data for rural communities. Improved reporting on loan denials, rate spreads, and HOEPA status would especially benefit lending assessment and consumer protections. Loan applicants and borrowers in rural communities experience higher rates of loan denials and high cost lending than in suburban or urban areas. More complete data on reason for denial as well as rate spread

[8] Housing Assistance Council. *Rural Mortgage Activity Declines. Home Purchases are Up, But So Are High Cost Loans*. Rural Research Note. Housing Assistance Council. October, 2014.

and cost information would benefit not only rural, but all lending assessments. Making available more detailed and enhanced loan characteristics would be positive step in bridging the current chasm and lack of understanding on mortgages and lending activity.

Ultimately, financial and mortgage market information is vital to understanding and improving affordable and appropriate lending activity. It is clear that the Home Mortgage Disclosure Act must be enhanced to better capture home lending activities, especially in rural communities. HAC applauds the Bureau for proposing substantial and meaningful improvements to HMDA, but some notable gaps and shortcomings remain. We believe our comments and insights will help inform improvements that will greatly enhance the public's understanding of rural home credit markets and help ensure that all residents have access to fair and affordable credit.

The Housing Assistance Council is pleased to have this opportunity to comment on the proposed rule to improve and enhance the Home Mortgage Disclosure Act. Please do not hesitate to contact me if you need additional information or clarification of our comments.

Sincerely,

Moises Loza
Executive Director