January 21, 2022

Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

**Re: Docket No. CFPB-2021-0018; Home Mortgage Disclosure (Regulation C); Request for Information Regarding the HMDA Rule Assessment**

Ladies and Gentlemen:
The American Bankers Association, Consumer Bankers Association, Housing Policy Council, and Mortgage Bankers Association (collectively, the Associations), on behalf of our respective members, appreciate the opportunity to respond to the Consumer Financial Protection Bureau's (the Bureau) Request for Information (RFI) to inform the Bureau on a planned assessment of the 2015 Home Mortgage Disclosure Act regulations and related amendments (HMDA Rule).[1] We appreciate the Bureau's decision to evaluate the effectiveness of the HMDA Rule in meeting its stated goals and the purposes and objectives of the Dodd-Frank Act's amendments to HMDA.

## I. Overview

The Associations commend the Bureau for engaging in a focused evaluation of the HMDA Rule and its associated burdens and benefits. We agree with the Bureau that this regulation is very important to all mortgage stakeholders and that policymakers, the public and mortgage industry participants would benefit from a careful assessment of the HMDA Rule. The Associations are particularly encouraged by the Bureau's assurances in the RFI that the assessment is "an opportunity to evaluate whether prior HMDA rulemakings have improved upon the data collected, reduced unnecessary burden on financial institutions, and streamlined and modernized the manner in which financial institutions collect and report HMDA data."[2] We commend the Bureau's intention to assess the benefits, costs and impacts that its regulations have on all mortgage credit stakeholders.

## II. October 2019 Joint Industry Comments

The Associations previously submitted comments to the Bureau on October 15, 2019, pursuant to an advance notice of proposed rulemaking (ANPR) issued in May 2019 (2019 Comment). In that submission, the Associations offered a comprehensive assessment of the costs and benefits of complying with the HMDA Rule. The 2019 Comment provided data on the regulatory costs associated with the HMDA Rule, which remains pertinent to this assessment.

To summarize, to respond to the 2019 ANPR the Associations partnered with STRATMOR Group[3] to conduct a comprehensive survey (Survey) to identify the precise burdens associated with HMDA Rule compliance. First, our ANPR response offered a detailed description of the

[1] 66 Fed. Reg. 66220 (Nov. 22, 2021).
[2] 66 Fed. Reg. 66220, 66221.
[3] The STRATMOR Group is an independent consulting, analytics, and advisory services firm that specializes in mortgage banking.

implementation costs associated with the 2015 rulemaking that implemented the Dodd-Frank Act reforms and related amendments to HMDA. Second, the 2019 Comment offered survey data on the resources necessary to comply with HMDA on an ongoing basis. Third, the 2019 Comment presented cost/benefit assessments, also based on survey results, regarding HMDA's institutional coverage and the value of the rule's multiple data points. Finally, we made recommendations to eliminate several HMDA data points to reduce costs and increase regulatory efficiency.

The Associations believe that the data, analysis, and recommendations included in the 2019 Comment apply to the current assessment, and therefore, we urge the Bureau to review that letter in the context of this assessment. Although we have reason to believe that multiple cost figures have increased since our submission of the Survey, the Associations believe that the data remain the most accurate cost data available on a market-wide basis. Staffing and other challenges caused by the ongoing COVID-19 pandemic makes data from 2020 and 2021 difficult to collect. Further, even if it could be collected, the data would have the potential to misrepresent ongoing HMDA compliance costs, as it would reflect broader operational challenges related to the pandemic and not the rule. Therefore, we encourage the Bureau to rely on the data reported in the 2019 Comment for this assessment.

The 2019 Comment can be found in *Attachment A*, herein. The data and conclusions contained in those comments serve as the basis to answer multiple questions in this new RFI. We encourage the Bureau to use the information in the 2019 Comment for its assessment, as a section 1022(d) assessment must reflect "available evidence" and data.

## III. Questions Posed By the Bureau

In the RFI, the Bureau announces plans to analyze a variety of metrics and data to the extent feasible and solicits comments about activities, outcomes, and information that may be useful in conducting the planned assessment. Our comments generally follow the inquiries set forth in the RFI.

*a. Implementation Costs: The Bureau seeks input on implementation and compliance costs for financial institutions, including activities covered institutions conducted to collect and report new and revised data points.*

As demonstrated by the Survey and reflected in our 2019 Comment, the implementation costs associated with the HMDA Rule were considerable. Along with one-time, upfront expenditures, compliance with HMDA involves significant ongoing costs, including expenditures and staffing related to data collection, scrubbing, analysis, reporting, and training. Given the HMDA Rule's complexity, HMDA reporting involves many manual processes, which in turn require staff oversight. Such costs are particularly burdensome for smaller institutions, which often lack the efficiencies of scale needed to offset these expenses. For these institutions, HMDA compliance imposes strong upward pressures on mortgage costs paid by consumers on a per-transaction basis.

The Survey data reveal that for lenders with fewer than 1,000 HMDA reportable units, the average number of full-time employees (FTE) dedicated to HMDA reporting is 3.3. Assuming an average FTE cost of $65,000 annually, ongoing annual personnel costs were $214,500 for a

lender with limited mortgage lending activity (fewer than 1,000 units), and that figure excludes any cost allocation for time spent by loan officers and fulfillment personnel in the process. For a lender that reports between 1,000 and 5,000 units, the average number of FTEs jumps to 6.01, for an average cost of $390,650. While 35% of lenders added technology FTEs for ongoing reporting, 70% of lenders added non-technology FTEs to sustain the increased data management (scrubbing and monitoring) required with the new HMDA dataset. These numbers underscore the highly complex nature of the HMDA Rule and the need for specialized staff, which imposes high training costs or imposes high salary costs for experienced employees.

HMDA compliance is also increasingly reliant on dedicated software; the majority of Survey respondents (61%) purchased new software to implement the HMDA Rule, spending an average of $412,874 on that software. About half of respondents (46%) indicated that, on an ongoing basis, they use dedicated software to report HMDA, incurring an average annual cost of $88,281. The use of dedicated software has likely increased in the 2020-2021 timeframe due to the demands of managing operations with reduced staff during the pandemic as well as general increases in the use of technology by industry. About 1/3 of lenders surveyed also used a vendor to support ongoing HMDA reporting in 2019, further adding to their compliance costs. The use of HMDA-dedicated vendors has likely increased in the 2020-2021 timeframe.

Finally, we note that a very important aspect of compliance costs for financial institutions comes from uncertainties regarding the application of HMDA's complex and technical rules and provisions. Therefore, as part of its evaluation as to whether the HMDA Rule has reduced unnecessary burden on financial institutions, the Bureau should consider ways to improve compliance certainty. With this in mind, we encourage the Bureau to review the list of compliance questions and suggestions included with the coalition's 2019 Comment. We note that this is not a complete, inclusive list—indeed, our members have identified additional questions and areas of uncertainty since the 2019 letter was submitted. We look forward to working with the Bureau to provide clarity in these areas, which would in turn reduce costs and improve the integrity, quality, and value of the data.

*b. Revised Data Points: The RFI requests comments on benefits and costs of the HMDA's new and revised data points.*

The 2019 Comment presents a comprehensive and still-accurate picture of the unique costs and burdens borne by institutions under the expanded HMDA reporting requirements. The Survey results demonstrate that the burdens associated with reporting multiple new data fields are extremely high. Respondents also stated that multiple new data fields are of limited value for the monitoring purposes of HMDA. The relevant portions of the 2019 Comment are summarized below and identify those data points for which the burden of collecting, maintaining, and reporting substantially outweighs the benefits that the information provides. The Associations reiterate the request that the Bureau consider eliminating certain data points from Regulation C, as described below.

1. **Automated Underwriting System Used and Result:** The HMDA Rule requires reporters to report, except for purchased covered loans, the name of the automated underwriting system ("AUS") used by the financial institution to evaluate the application and the result

generated by that automated system. This data point raises reporting complexities that cannot be easily resolved and often lead to inconsistent reporting. Survey respondents ranked AUS and result as one of the least useful data points, slightly below the free-form race/ethnicity fields. Because the CFPB redacts AUS results from publicly released HMDA data, individual lenders have access only to their own AUS results, and therefore cannot make comparisons to data from other institutions. Other public stakeholders, such as advocacy organizations and local governments, have no AUS result data at all, and are therefore also unable to draw any value from its collection. Members indicated the data were moderately difficult to collect and obstacles to collection reduce its usefulness. As a result, lenders identify this data point as problematic, highly prone to error, and therefore likely to yield inconsistent or misleading data, limiting the ability to draw meaningful or reliable conclusions. On balance, we recommend that this data point be eliminated.

2. **Additional Fields for Race and Ethnicity**: The HMDA Rule includes expanded reporting of race and ethnicity, with up to five fields for each data point. Our members overwhelmingly find these race and ethnicity fields to be significantly complex, providing limited benefit both from a data integrity and data analysis perspective. The confusion caused by these additional fields, for both lenders and borrowers, as well as inconsistencies in collecting and reporting, weigh in favor of removing these fields—this will reduce the burdens without negatively impacting HMDA's objectives.

3. **Free-form Text Fields**: The HMDA Rule introduced free form text fields for five data fields, all of which are excluded from the public data set: race; ethnicity; name and version of credit scoring model; reason for denial; and automated underwriting system used and result. These free form text fields are consistently problematic and require a significant amount of resources to ensure accuracy and consistency while providing little, if any, benefit in furthering the purposes of HMDA. Assuring accuracy and consistency of these fields requires a time-consuming manual processes, placing a significant burden on lenders with little to no benefit for the regulators. We urge the Bureau to eliminate the requirement to collect and report all free form text fields from the HMDA data set. Their removal would substantially reduce the burden on reporting institutions and would have no negative impact in furthering the purposes of HMDA.

4. **Discount Points and Lender Credits**: The HMDA Rule requires lenders to report the points paid to the creditor to reduce the interest rate, as well as fees defined as lender credits under Regulation Z (TRID) and disclosed on the TRID Closing Disclosure. We believe this data point is duplicative of information embedded in the rate spread field and does not provide regulators or researchers any relevant pricing outcomes that align with the broader purposes of HMDA. Further, the pricing comparisons intended for this data point are extremely difficult, even impossible, to analyze because of differences in markets, product types, and most importantly, the "complex behaviors of borrowers and lenders." This complexity impedes the utility of the granular pricing data. Overall, the marginal value of this new data point is too limited to justify retention.

5. **Total Units in Security Property**: The HMDA Rule requires a lender to report the number of individual dwelling units related to the property securing the covered loan. Compliance with this data point is very problematic as it requires interpretive decisions by reporting institutions. Compliance staff must review property descriptions and make judgment calls on such details as detached units to the subject property. The Associations request that this data point be eliminated.

6. **Manufactured Homes**: Secured Property Type and Land Property Interest: The HMDA Rule added two new data points that are specific to manufactured homes. The data fields related to manufactured homes – the secured property type and land property interest – are difficult to report and have little, if any, benefit in furthering the purposes of HMDA. Survey respondents found that this data was difficult to collect with accuracy, particularly because the lender often relies on information provided by the customer. Due to the small set of loans to which these data fields apply, combined with the burdens of collecting and reporting and the lack of usefulness, we recommend elimination of these data points and their replacement with a flag to indicate whether the loan is secured by a manufactured home.

7. **Business and Commercial Purpose Loans**: The HMDA Rule sets forth that closed-end or open-end loans that are for commercial/business purpose and are secured by a dwelling are HMDA reportable. The Associations have advocated for the elimination of HMDA reporting for commercial- and business-purpose lending. Business or commercial loans do not constitute "home-financing" activities that HMDA was enacted to address. The findings of Congress upon which HMDA was enacted concern failures "to provide adequate home financing to qualified applicants on reasonable terms and conditions."[4] Nothing in HMDA pronounces an intent to cover business lending by private sector market players.

In considering business-purpose loans, it is also important that the Bureau focus on the very significant burdens of applying HMDA rules to these loans. Major difficulties and complications stem from the fact that commercial-purpose loans are so different from residential loans in terms of origination method and structure that they do not fit the general template set forth under Regulation C. For instance, commercial- and business-purpose loans are typically provided to non-natural persons, and as such, there can be no collection of race, ethnicity, age or sex data. In the commercial context, lenders structure deals in varying ways, with varying kinds of collateral being considered at various points in the loan process. These loans are structured with non-housing considerations in mind, including the business viability of the applicant's venture, mitigation of risks associated with the property or business, market and loan terms, as well as the needs of the investor. In short, commercial and business transactions are so dissimilar to residential transactions that lenders must establish entirely separate reporting processes or purchase dedicated software that focuses specifically on this type of lending.

In addition, the Bureau should consider its rulemaking to implement section 1071 of the Dodd Frank Act that will require financial institutions to collect and report to the Bureau data on applications for credit made by small businesses, including women-owned businesses and

[4] 12 U.S.C. § 2801(a) (emphasis added).

minority-owned businesses. [5] We believe overlap and inconsistencies in these regulatory reporting regimes will create significant and unnecessary complexities and burdens for covered financial institutions. Most of the Associations commented on the 1071 proposal and urged the Bureau to remove business/commercial purpose loans from HMDA's scope and to require lenders to report these applications under section 1071. Creating a clear distinction between the two regimes would greatly reduce complexity and burden on financial institutions, as well as minimize confusion for credit applicants.

8. **Business and Commercial Purpose Loans Secured by Multifamily Properties to Non-natural Persons**: In the 2019 ANPR, the Bureau requested comment on the HMDA reporting of business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling.[6] Many commenters responded, including an October 15, 2019, commercial real estate industry comment joined by MBA, ABA, and others. A copy of that industry comment can be found at *Attachment B*, herein.

Consistent with the observations and recommendations in those comments and consistent with our recommendation above to exclude all business and commercial purpose loans, we urge the Bureau to revise Regulation C to exempt business- or commercial-purpose loans made to a non-natural person and secured by multifamily properties. The substantial regulatory burden of HMDA reporting of those loans more than outweighs the potential value of such data in serving HMDA purposes. HMDA reporting of multifamily loans (commercial lending) is highly burdensome because HMDA, Regulation C, and the reporting infrastructure is designed around single-family lending. As a result, reporting of multifamily loans requires many manual processes.[7]

The minimal value of the data is illustrated by the fact that most HMDA data fields are inapplicable to multifamily mortgages, or to any loans to non-natural person borrowers.[8] The fact that multifamily lending is largely absent from the extensive analysis and data tables presented in the Bureau's annual analysis of HMDA data further demonstrates the limited value of the data.[9] Multifamily lending clearly was not top-of-mind for Congress when it enacted the Home Mortgage Disclosure Act.[10]

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[5] 86 Fed. Reg. 56356 (Oct. 8, 2021).
[6] 84 Fed. Reg. 20049 (May 8, 2019).
[7] See pages 4-6 of the comment letter at Attachment B for additional description of that reporting burden.
[8] See, e.g., Appendix B to Part 1003 — Form and Instructions for Data Collection on Ethnicity, Race, and Sex, item 7; Supplement I to Part 1003—Official Interpretations, Comment for 1003.4—Compilation of Reportable Data, Paragraph 4(a)(10)(ii)—5 (age); Paragraph 4(a)(10)(iii)—7 (income data). Other data fields generally inapplicable to multifamily lending include: preapproval; rate spread; HOEPA status; credit score; total loan points/total points and fees; origination charges; discount points; lender credits; prepayment penalty; debt-to-income ratio; manufactured home secured properties type; and manufactured home land properties interest.
[9] See, e.g., Consumer Financial Protection Bureau, Data Point: 2020 Mortgage Market Activity and Trends (April 2021). See also discussion at pages 3-4 of the comment letter at Attachment B.
[10] See also pages 6-7 of the comment letter at Attachment B for additional evidence that Congress did not have multifamily lending in mind when it enacted the Home Mortgage Disclosure Act.

Therefore, we urge the Bureau, as part of its review of Regulation C, to exclude business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling from HMDA reporting.

*c. Purposes and Objectives of Title X of the Dodd-Frank Act: The Bureau solicits information about the HMDA Rule's effectiveness in meeting the purposes and objectives of the Dodd-Frank Act, including a description of the value that data on such transactions provides in serving HMDA's purposes.*

The Associations agree with the Bureau that the HMDA Rule is important enough to for the Bureau to conduct voluntarily an assessment that complies with section 1022(d) of the Dodd-Frank Act. Pursuant to that section, the assessment must address, among other relevant factors, the effectiveness of the rule in meeting the purposes and objectives of Dodd-Frank Act Title X and the specific goals stated by the Bureau in promulgating the rule.

Section 1021 of the Dodd-Frank Act states that the Bureau shall seek to implement Federal consumer financial law consistently for the purposes of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive. Other objectives of Title X include ensuring that: (1) consumers are provided with timely and understandable information to make responsible decisions about financial transactions; (2) consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; (3) outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; (4) Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and (5) markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

Separately, the purposes of HMDA are threefold: (1) to help determine whether financial institutions are serving the housing needs of their communities; (2) to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (3) to assist in identifying possibly discriminatory lending patterns and enforcing antidiscrimination statutes. The stated goals of the HMDA Rule were to implement the Dodd-Frank Act amendments to HMDA, better achieve HMDA's purposes in light of current market conditions and reduce unnecessary burden on financial institutions. The Bureau also stated that HMDA data reporting requirements needed to be updated in order to address gaps in the HMDA data regarding certain segments of the market.

Collectively, these elements serve as the framework for the Bureau's assessment of the HMDA Rule. Accordingly, the Bureau's assessment must evaluate the rule's impact on consumer protection, the availability of credit and pricing of credit, and whether the rule imposes undue burdens on financial institutions. In considering undue burdens, the Bureau must weigh possible alternatives that could meet the goals of HMDA and Title X while reducing the burden on financial institutions.

*d. Benefits and Costs: The Bureau solicits information about the benefits and costs of the HMDA Rule for stakeholders and about the utility, quality, and timeliness of HMDA data in meeting the Rule's stated goals and objectives.*

As described above, institutions incur substantial costs complying with HMDA. With respect to certain of the expanded data fields, these costs can be difficult to justify in light of the limited benefit these data fields provide. While an assessment of the benefits and burdens could end there, looking only at costs from the institutional perspective, we believe that an assessment limited in this way would be incomplete as it would ignore significant privacy concerns implicated by this law's data collection and reporting requirements. Unfortunately, the Bureau's request for information makes clear that it is not reconsidering its privacy determinations as part of this assessment.[11] While the Bureau is free to set the terms of this voluntary assessment, we strongly believe any future changes or additions to the HMDA Rule must consider the need to protect consumer privacy. The ability of artificial intelligence to cross-link data sets and identify individuals through matching continues to mature, and it will soon reach the point—if it has not already—in which most HMDA data will be presumptively linked to individuals. It would be improper for the Bureau to assume that borrowers would consent to the publication of this information or that they are aware of the extent of the data that is made publicly available. Indeed, research reveals that large majorities of the public have serious concerns about the collection of their data, including by the government.[12] Accordingly, the Bureau should constantly evaluate its current HMDA disclosure privacy policies in light of technological developments and seriously consider the need for consumer privacy in any future changes to the HMDA rule.

Additionally, the Associations would like to take the opportunity to provide feedback on Fair Lending examination processes that unnecessarily increases the cost and burden of compliance. Specifically, examination requests can often be duplicative by requiring lenders to resubmit already publicly available HMDA data. We, therefore, suggest that examinations requests capture the publicly available data from the CFPB website at the onset of the process.

*e. Coverage Thresholds: The Bureau solicits information on the adoption of loan-volume coverage thresholds and revisions to transactional coverage, including mandatory reporting of open-end lines of credit and the adoption of a dwelling-secured standard.*

The 2015 HMDA Rule defined the threshold that determines whether financial institutions are required to collect, record, and report HMDA data at 25 closed-end mortgage loans in each of the two preceding calendar years. On May 12, 2020, the Bureau issued a final rule increasing the threshold for collecting and reporting data about closed-end mortgage loans from 25 to 100

[11] We do note that the Bureau's Privacy Policy, issued as guidance, may not meet the statutory requirement that the "Bureau shall require, by regulation, such deletions as the Bureau may determine to be appropriate to protect…any privacy interest of any applicant." See 12 USC 2803(2)(B)(i) (emphasis added) discussing deletions in presenting collected data points.

[12] 66% of Americans believe that the risks of government data collection outweigh the benefits. *See* Pew Research Center, Americans and Privacy: Concerned, Confused and Feeling Lack of Control Over Their Personal Information, November 15, 2019 at https://www.pewresearch.org/internet/2019/11/15/americans-and-privacy-concerned-confused-and-feeling-lack-of-control-over-their-personal-information/

loans, effective July 1, 2020.[13] The final rule also increases the threshold for collecting and reporting data about open-end lines of credit, from 100 to 200, effective January 1, 2022 (at which point the current temporary threshold of 500 open-end lines of credit lapsed).

The Bureau states in the RFI, "Certain provisions in the 2020 HMDA Final Rule that would not go into effect until January 2022, such as the increase in the open-end coverage threshold, *are not being considered under this assessment.*" [14] (emphasis added) We believe the collection and reporting of open-end transaction data are very important considerations that the Bureau should assess, though we understand that given the limited experience with this new data field, it may be too soon to properly assess at this time. We note that the burden associated with the collection and reporting of data on open-end credit imposes significant costs and burdens on institutions. Yet as we describe in detail in our 2019 Comment, this data does not provide meaningful information on mortgage and housing-related credit in furtherance of HMDA's statutory objectives. In light of the low utility and excessive costs associated with reporting open-end credit, the Associations continue to recommend the elimination of this data from HMDA reporting.

Focusing on closed-end coverage thresholds, the Associations agree with the Bureau's recent conclusions that properly set coverage thresholds can "appropriately balance the burden on lower-volume depository institutions while at the same time maintaining sufficient reporting to achieve HMDA's purposes."[15] There is recognized benefit in reducing regulatory cost and burdens in the provision of mortgage credit while maintaining fidelity to the law's objectives—lower origination and regulatory costs will accrue to the benefit of all consumers in competitive markets. As such, we support institutional thresholds under HMDA, as they provide regulatory relief to small institutions without impairing HMDA's objectives.

In data analysis recently performed by the Bureau[16] and corroborated by American Bankers Association, the 100-loan threshold retains reporting of 96% of total originations. As the Bureau notes, with a 100-loan threshold, there would be a loss of approximately 20 percent of reportable HMDA data in about 1,100 out of approximately 74,000 total census tracts, or 1.5 percent of the total number of census tracts.[17]

When balancing burden reduction versus loss of valuable data, this analysis reveals an insignificant loss of data to assist public officials in ascertaining public and private investment distributions, or determinations of whether financial institutions are serving the needs of their communities. Retention of a 100-loan threshold affects a small fraction of data in a very small number of census tracts—a loss of data from only 1.5 percent of the nation's census tracts.

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[13] 85 FR 28364.
[14] See 86 FR 66221 at footnote 10.
[15] Home Mortgage Disclosure (Regulation C), 84 Fed. Reg. 20,972, 20,977 (proposed May 13, 2019).
[16] See *ABA Comments to CFPB, Proposed Rule with Request for Public Comment, Home Mortgage Disclosure Act, Regulation C, Docket No. CFPB-2019-0021* (June 10, 2019), posted at https://www.aba.com/-/media/documents/comment-letter/cfpb-hmda-061019.pdf?rev=fe40565f7acf4e7ca53740232d245ee9
[17] 84 Fed. Reg. 20,972 at 20,978.

Further, in terms of total originations, a 100-loan threshold results in a reduction of between 1-4% of total transactions reported. In short, the threshold has a negligible effect on aggregate data on overall loan distribution. Moreover, any need to ascertain precise loan information for certain regions could be satisfied by focused market studies that would not demand the millions of dollars required to compile detailed HMDA data by individual small lenders.

As a final observation, our support for HMDA coverage thresholds is based on considerations that are broader than mere convenience or achieving "cost-savings" for small lenders. Smaller institutions that originate a limited number of mortgages are often unable to support the very high costs of HMDA compliance. Assuring full HMDA compliance requires specialized staffing, the establishment of well-defined informational flows, specialized calculations, dedicated software systems, policies and procedures, and extensive training. A decision by a small institution to exceed a threshold and initiate HMDA reporting cannot be done through the "flip of a switch." Instead, it requires thoughtful balancing of costs, risks, and resource demands as well as time to implement the necessary operational and compliance infrastructure to support it. In light of this reality, many low volume mortgage lenders that benefit from the current thresholds report that they manage their mortgage lending volumes to stay beneath the threshold. A low volume lender that considers exceeding the thresholds must carefully analyze the profitability of its production volume and decide whether it justifies incurring the high fixed and variable costs that arise from compliance with HMDA. In most instances, the decision is clear—at the limits of the HMDA thresholds, small volume lenders will halt loan production to avoid reporting burdens that would render small mortgage operations unprofitable. The exodus of these banks is not a desirable outcome for the millions of consumers served by them, typically in regions that lack other alternatives for financial services.

**IV. Conclusion**

The Associations support the Bureau's efforts to assess opportunities to tailor Regulation C in a manner that balances the fundamental objectives of HMDA while minimizing burden on reporting institutions. We look forward to working with the Bureau on this assessment and any other action to improve and modify Regulation C.

The Associations appreciate the opportunity to comment on this RFI. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully Submitted,

**American Bankers Association**

**Consumer Bankers Association**

**Housing Policy Council**

**Mortgage Bankers Association**

# Attachment A

# Joint Trades Letter to CFPB on HMDA - Residential






October 15, 2019

Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

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

Ladies and Gentlemen:

The American Bankers Association, Bank Policy Institute, Consumer Bankers Association, Housing Policy Council, and Mortgage Bankers Association (the "Associations"), on behalf of our respective members, appreciate the opportunity to respond to the Consumer Financial Protection Bureau's (the "Bureau") Advance Notice of Proposed Rulemaking on the Home Mortgage Disclosure Act ("HMDA") (Regulation C) Data Points and Coverage (the "ANPR").[1] The initiation of this rulemaking process, to evaluate these key aspects of Regulation C, is a welcome step to ensure that the goals of HMDA are fulfilled with a properly tailored regulation and data collection.

## I. Introduction

We appreciate the Bureau's attention to the ongoing challenges experienced by financial institutions to comply with Regulation C, as amended by the Bureau's 2015 final rule ("2015 HMDA Rule").[2] We also appreciate the Bureau's willingness to reconsider the mandatory cost-benefit analysis by evaluating the balancing of the burdens of data collection and reporting under the 2015 HMDA Rule with the value of the data reported. While we support modifications to Regulation C that further HMDA's purposes, this must be done with due consideration of the costs and burdens on institutions relative to the value of additional data reporting. With appropriate balancing, the Bureau can alleviate the regulatory burdens related to HMDA data collection and reporting while still fulfilling the objectives of HMDA.

This balancing, however, requires data on the cost of data collection and reporting, which the Bureau observes, few commenters provide.[3] First, *Section II* of the letter provides data on the

[1] Home Mortgage Disclosure (Regulation C), 84 Fed. Reg. 20049 (May 8, 2019).
[2] Home Mortgage Disclosure (Regulation C), 80 Fed. Reg. 66128 (Oct. 28, 2015).
[3] *See, e.g.*, Home Mortgage Disclosure (Regulation C), 84 Fed. Reg. 20972, 21011 (May 13, 2019).

regulatory burden on mortgage lenders and servicers. To address the Bureau's direct solicitation for cost data, the Associations partnered with STRATMOR Group[4] to conduct a survey to identify the precise burden associated with HMDA compliance (the "Survey"). These results are intended to provide a clear and comprehensive picture of the unique cost and burdens borne by banks under the expanded HMDA reporting requirements. *Section III* of the letter provides an overview of the Survey and key results.

*Section IV* of the letter responds to the Bureau's specific questions from the ANPR based on the Survey and additional input from our members.

## II. Regulatory Burden

In the nine years since enactment of the Dodd-Frank Act, the Bureau has issued at least 31 major rulemakings affecting mortgage origination and servicing—a staggering rate of regulatory change that has significantly increased the complexity, risk, and cost of mortgage lending and has inhibited banks' and mortgage companies' ability to serve their customers. The cost to originate a mortgage loan for mid-sized banks has nearly doubled from approximately $4,800 in 2008 to approximately $9,000 in 2018, according to data from the Mortgage Bankers Association and the STRATMOR Peer Group Roundtable Benchmarking Program.

Data from ABA's annual Real Estate Lending Surveys corroborate this trend and demonstrate the adverse impact of this ever-increasing layering of regulatory requirements on banks:

- In 2017, 77% of responding banks reported a "moderate to extreme" negative impact stemming from mortgage regulation, with 22% reporting "extreme" impact. Last year, even after most rules had been implemented, 58% still reported a "moderate to extreme" negative impact stemming from regulation, with 9% reporting "extreme" impact.
- In 2017, 96% of responding banks reported higher mortgage-specific compliance costs as a result of Dodd-Frank Act regulations. In 2018, 63% of respondents report that the institution's mortgage-specific compliance costs continued to increase in 2018; another 36% report that they have just "leveled out" in 2018.
- In 2017, 83% of respondents reported they had to hire additional staff as a direct result of new regulations; in 2018, this number remained high at 43%.
- In 2017, 97% of respondents reported increased legal/regulatory consulting costs; these costs continued to increase in 2018 for 69% of respondents.

As the Survey results demonstrate, compliance with the 2015 HMDA Rule has added to these regulatory burdens.

[4] The STRATMOR Group is an independent consulting, analytics, and advisory services firm that specializes in mortgage banking.

## III. Survey: Methodology and Key Results

### *a. Methodology and Respondent Profile*

As previously explained, to respond to the ANPR, the Associations engaged STRATMOR Group to survey members to gather data that would be useful in answering the questions posed by the Bureau's ANPR. The Survey was conducted from June 20 through July 26, 2019.

The final sample of Survey respondents included 182 lenders that were primarily banks or bank owned/affiliated mortgage entities (93%).[5] Using the population of bank lenders in HMDA, which was 2,951 in 2018, the findings of this survey are generally representative of the overall population of banks with a 95% confidence level and a 7.5% margin of error. Survey respondents are a representative cross-section of banks in terms of asset size, as well as mortgage volume (HMDA reportable units).

### *b. Key Results*

The Survey results highlight the costs of implementation and ongoing reporting, and they identify certain data points for which the burden does not outweigh the benefit. Attached to this letter as Appendix A is the complete Survey report, which we summarize below.

1) <u>The initial costs to implement the 2015 HMDA Rule have been substantial for institutions of all sizes and profiles.</u>

The cost to implement the 2015 HMDA Rule was astoundingly high, and the continuing compliance costs impose strong upward pressures on what consumers pay on a per-transaction basis. In addition, the burdens compel additions to lender staff levels, inflating institutional expenditures generally.

To implement the 2015 HMDA Rule, 46% of the Survey respondents increased technology full-time employees ("FTEs"),[6] with larger lenders, on balance, more likely to have added technology FTEs. For those that increased technology FTEs, the primary reasons were to update the loan origination systems ("LOS") and relevant software and fields. The majority of surveyed lenders (61%) purchased new software to implement the 2015 HMDA Rule and spent an average of $412,874 on that software.

In addition to increases in internal staffing and purchases of necessary software, many lenders also relied on outside vendors to implement the 2015 HMDA Rule. 37% of respondents

[5] With respect to the Survey structure and responses, we note the following—(1) not every respondent answered every question; (2) sample sizes are noted throughout the survey's slide presentation; and (3) opportunity was given for free-form comments.

[6] Technology FTEs include individuals working in the technology development, testing, maintenance and support groups. For banks, this may include FTE in the Bank technology areas that are assigned to mortgage on a direct basis or on a project basis.

engaged a vendor[7] for implementation of the Rule, spending an average of $335,966 on technology vendors and an average of $87,228 on non-technology vendors. When examining vendor costs by size of lender, lenders with less than 1,000 reportable HMDA units spend an average of $10,890 on vendors, while lenders with more than 50,000 reportable HMDA units spent an average of $3.4 million on vendors. This equates to an average cost of $21-$40 per loan on vendor services alone.

2) Lenders continue to devote significant resources to ongoing compliance with the 2015 HMDA Rule.

The additional expenses and staff allocations committed to HMDA data collection, scrubbing, analysis, and reporting are continuous—in short, the reporting of accurate data requires constant bank expenditure, year after year. Moreover, the collection and reporting of accurate data is challenging, resulting in, high training costs and elevated salaries for employees assigned to HMDA compliance.

Survey data show that lenders devote significant staffing resources to HMDA compliance. For example, for a lender with fewer than 1,000 HMDA reportable units, the average number of full-time employees dedicated to HMDA reporting is 3.3. Assuming an average FTE cost of $65,000 annually, ongoing annual personnel costs are $214,500 for a lender with limited mortgage lending activity (fewer than 1,000 units), and that figure excludes any cost allocation for time spent by loan officers and fulfillment personnel in the process. For a lender that reports between 1,000 and 5,000 units, the average number of FTEs jumps to 6.01, or an average cost of $390,650.

While 35% of lenders added technology FTEs for ongoing reporting, 70% of lenders added non-technology FTEs for the continual work associated with reporting.[8] Lenders that report between 10,000 and 50,000 units had the largest percentage increase in non-technology FTEs, with 70% of respondents in that category reporting increasing non-technology FTEs by at least 10%. The main reasons for adding non-technology FTEs were assuring integrity of data and general compliance review work. Slightly less than half of respondents (46%) indicated that they use dedicated software to report HMDA, incurring an average *annual* cost of $88,281.

3) The burden of reporting several new data fields outweighs the benefits of those data fields in furthering HMDA's objectives.

The Survey also shows that the burden of reporting some new data fields far outweighs the benefits of those particular data fields. Respondents clearly indicated that many of the newly required reporting fields are of limited value for monitoring whether they are effectively serving the housing needs of their communities and identifying possible discriminatory lending patterns.

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[7] Vendors would include such categories as legal, training, software development and integration, and LOS development.

[8] Non-technology FTEs include individuals working in any non-technology area which supported HMDA implementation including compliance, legal, post-closing, training, sales or sales administration, and fulfillment areas such as processing, underwriting or closing.

For example, the free-form race and ethnicity fields were ranked low in terms of usefulness and high in terms of burden of collecting and reporting, as these data points cause borrower confusion and staff has difficulty collecting the information correctly. Moreover, in its report on the new and revised data points, the Bureau notes, "These free-form text fields were sparsely populated. About one percent of the applicants filled in the free-form fields for race and ethnicity."[9] Therefore, these data cannot be used even for aggregate statistical analysis, so *any* burden imposed by their collection and reporting would outweigh their contribution toward achieving HMDA's objectives.

In response to the Bureau's requests for comment, we provide additional details on specific data items and reporting requirements.

## IV. Responses to Specific Requests for Comment

1. **Please identify any new data point or any data point revised to require additional information from the list above for which the cost of collecting and reporting the information does not justify the benefit that the information collected and reported provides in furthering the purposes of HMDA. For each such data point:**
    - **i. Please describe the nature and magnitude of any operational challenges in collecting and reporting the required information.**
    - **ii. What ongoing costs are incurred in collecting and reporting the required information? Has the Bureau's new web-based data submission and edit check system affected ongoing costs of collecting and reporting the required information? If so, how and how much? To what extent are the data point's requirements aligned with industry standards, and how does that affect ongoing costs of collecting and reporting the required information?**
    - **iii. Would financial institutions generally collect the required information in the ordinary course of business absent Regulation C requirements? If so, what are the incremental costs associated with reporting the required information? If not, what are the costs associated with collecting and reporting the required information?**
    - **iv. How much value does the data point provide in furthering the purposes of HMDA?**

While the Survey does not allocate ongoing costs to individual data points, it does provide an overarching picture regarding the significant reporting burdens of HMDA data.[10]

Based on the results of the Survey as well as the Bureau's own analyses of the 2018 HMDA data, we have identified certain data points for which the burden of collecting, maintaining and reporting substantially outweighs the benefits the information provides. We identify and discuss each of these data points below, and urge the Bureau to eliminate these items from Regulation C. The data points we designate for removal generally meet three criteria:

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[9] Consumer Fin. Prot. Bureau, Introducing New and Revised Data Points in HMDA: Initial Observations from New and Revised Data Points in 2018 HMDA 22 (Aug. 2019), https://files.consumerfinance.gov/f/documents/cfpb_new-revised-data-points-in-hmda_report.pdf [hereinafter CFPB New Data Report].

[10] See Section III.b above for a general discussion regarding implementation and ongoing costs related to the 2015 HMDA Rule.

(i) the information is not required by the statute; (ii) the information gathered provides marginal value, for example because the data point applies to a limited number of records or tends to be sparsely populated, when compared to the overwhelming operational costs that financial institutions must incur to gather and report; and (iii) the information is highly complex and unsuited for compliance purposes.

Further, for those reporting requirements that the Bureau retains under Regulation C, we urge, at minimum, full harmonization of the definitions and calculations of data points across the multiple mortgage regulations, including HMDA, the Equal Credit Opportunity Act, and the TILA-RESPA Integrated Disclosure rule ("TRID").

*Automated Underwriting System Used and Result*

The 2015 HMDA Rule requires financial institutions to report the name of the automated underwriting system ("AUS") used to evaluate the application and the result generated by that AUS.[11] This data point raises reporting complexities that cannot be easily resolved and often lead to inconsistent reporting. Survey respondents ranked AUS and result as one of the least useful data points, slightly below the free-form race/ethnicity fields. They also indicated these data were moderately difficult to collect, and obstacles to collection reduce the usefulness of the data.

An institution should report these data only if it used an AUS to evaluate the application. However, not all electronic tools would be covered under this requirement; in order for a system to be an AUS, the system must provide a result regarding both the applicant's credit risk and the eligibility of the loan to be originated, purchased, insured, or guaranteed by a securitizing entity. Creditors often run data through multiple AUSs at multiple times in the origination. All AUSs perform automated analysis of mortgage loan applications and evaluate its supporting data (e.g., credit reports) for purposes of qualification. However, AUSs also are used to ascertain the general "quality" of an application and whether applications conform to originator or investor guidelines and requirements. As such, an applicant's financial information may be run through an AUS at various points in the application/origination process and for various reasons. The regulation cannot adequately reconcile this diversity of AUS usages without imposing very complex rules to guide reporting.

Further, AUS calculations often are used for purposes that fall outside of the objectives of HMDA. Frequently, an AUS will integrate loan pricing possibilities across a lender's entire portfolio or product set so that there can be a holistic comparison of the best option for the consumer. These systems also may identify the full range of terms that are available for the customer. In such instances, the use of AUS is intended to inform product choice, not underwriting,

Further complicating matters, not only may lenders use multiple AUSs, they also may rely on various versions of the AUS offered by an investor or system provider. In addition, there may be "grades" of automated systems, so that in any one year, a lender may see the same AUS

[11] 12 C.F.R. § 1003.4(a)(35)(i).

"brand" be upgraded from version 3.0 to 3.5. These variations cannot be distinguished adequately for purposes of HMDA reporting.

As a result, lenders identify this data point as problematic and highly prone to error. The data point is likely to yield inconsistent or misleading data, which cannot provide useful information for fair lending analysis or for research studies using HMDA data. In light of its limited value, we recommend that this data point be eliminated.

*Additional Fields for Race and Ethnicity*

The 2015 HMDA Rule includes expanded reporting of race and ethnicity, with up to five fields for each data point. Members overwhelmingly find these race and ethnicity fields to be significantly complex and provide limited benefit both from a data integrity and data analysis perspective. In particular, the challenge of collecting this information, from a practical level (e.g., difficulties assessing the race and ethnicity through telephone or other similar interactions) largely defeats any corresponding benefit that the Bureau could have in collecting this information. Moreover, even if the Bureau were to find such a benefit in this data, the existing guidelines do not provide enough clarity and continue to lead to inconsistent interpretations, and therefore inconsistent reporting, of the sub-ethnicity codes. Additionally, the data requirement causes borrower confusion and leads to placing consumers in difficult and uncomfortable situations. These sub-fields overwhelmingly provide significantly limited meaningful detail and are particularly burdensome on lenders and correspondingly on borrowers from whom the information is requested.

The Bureau's analyses show that these additional fields are rarely used. "The vast majority of applicants selected one race, with the exception of applicants who selected American Indian or Alaska Native (in which case only a modest majority selected one race)."[12] For ethnicity, "for most applicants, only one field of ethnicity was used (95.1 percent). Only about five percent used two ethnicity fields."[13] This limited data cannot be used for meaningful analysis to further the HMDA's objectives.

The Bureau's report shows that these additional fields are rarely used, yet they cause confusion for lenders and borrowers as well as inconsistency in collecting and reporting. As discussed in more detail in response to Question 2, similar conclusions must be drawn in regards to the free-form text fields. Removing these additional fields will reduce the associated burdens without negatively impacting HMDA's objectives.

*Discount Points and Lender Credits*

The 2015 HMDA Rule requires lenders to report the points paid to the creditor to reduce the interest rate.[14] The data point directly corresponds to item from Line A.01 of the Closing Cost Details page of TRID's Closing Disclosure.[15] In addition, the newly-required "lender credits" data point is defined as the amount of lender credits disclosed on the TRID Closing

[12] CFPB New Data Report, *supra* note 9, at 20.
[13] *Id.*
[14] 12 C.F.R. § 1003.4(a)(19).
[15] *Id.* § 1026.38(h)(3).

Disclosure at the "Lender Credits" line of Block J (TOTAL CLOSING COSTS) of the "Closing Cost Details" Section.

We believe the compendium of new pricing data fields added by the 2015 HMDA Rule are of limited utility. The new pricing fields, such as discount points, lender credits, origination charges, interest rate, and total loan costs, were intended to generate information on the price that consumers pay for mortgages and information on the tradeoffs between rates, points, and fees. With these new data points, the Bureau hoped to improve the understanding of disparities in pricing outcomes beyond that permitted by the current rate spread data field. While a well-intended objective, it is duplicative as the information embedded in the rate spread field by itself allows regulators and researchers to appropriately understand relevant pricing outcomes and achieves the broader purposes of HMDA. Therefore, the marginal value of the new data points is too limited to justify retention.

Moreover, in terms of market comparisons, data on discount points and lender credits can be misleading for multiple reasons. First, the total discount points paid by consumers are interrelated with lender credits and can often be offset by such lender credits. The lender credit data point, however, is defined by TRID and does not necessarily designate a uniform set of payments or financial benefits "given to" the consumer. Under TRID, a lender credit can include a lender-provided pricing incentive, a balance reapportionment that reflects a "cure" for a tolerance violation, or lender offsets to closing costs and/or amounts to be paid at closing. In addition, lender credits on the closing disclosure can be either "specific credits" (meaning the credit is earmarked for a service included in the "Paid by Others" column), or "general credits" (indicating a dollar value for a credit placed on the Lender Credit line in Section J). Any analysis of lender credits across transactions and across populations is therefore subject to multiple definitional variances that are not appropriate for comparison. The interplay of these two fields and the varying elements they may include mean that pricing analyses can never be conclusive unless actual details of the specific transactions are dissected. Such definitional divergence in the data will lead to hazy interpretations of HMDA aggregate figures.

The Bureau recognizes this point in its initial report of the aggregate data,[16] observing that Lender Credits, as disclosed on the Closing Disclosure and reported under HMDA, may include lender credits given to borrowers for reasons other than choosing a higher interest rate in exchange for reduced upfront costs. As the Bureau notes, "the lender credits reported under HMDA may not perfectly mirror the definition of the Discount Points reported under HMDA and thus should not be viewed as the equivalence of the negative direction, i.e., being negative discount points."[17]

Moreover, discount points are highly variable. Some lenders do not offer them as options at all. Among the lenders that offer discount points, the precise interest rate reduction received for buying points is not formulaic—the discount will vary across lenders, across markets, and/or over time. In addition, "buying" points can afford consumers with varying tax benefits across depending on the location of the property. Discount points, therefore, are unreliable for price

[16] CFPB New Data Report, *supra* note 9, at 82-83.
[17] *Id.* at 83.

comparisons as they involve market, lender, and consumer choices and tradeoffs that are inappropriate for analyses related to the fairness and distribution of mortgage credit. The same applies to lender credits. As described by the Bureau in consumer information pages, "[t]he exact increase in your interest rate depends on the specific lender, the kind of loan, and the overall mortgage market. Sometimes, you may receive a relatively large lender credit for each 0.125% increase in your interest rate paid. Other times, the lender credit you receive per 0.125% increase in your interest rate may be smaller."[18]

Pricing comparisons are extremely difficult, even impossible, to analyze because of differences in markets, product types, and most importantly, the "complex behaviors of borrowers and lenders."[19] This complexity impedes the utility of the granular pricing data. To achieve HMDA's objectives, which are to monitor broad patterns in access to and pricing of mortgage credit, and to identify lenders or circumstances that may require a targeted fair lending examination, the existing rate spread measure is more than appropriate.

In addition, information on discount points is not generally included in loan origination program software. Accordingly, discount point information manually calculated and entered into HMDA compliance systems. 59% of Survey respondents report that they had to make manual updates or calculations to report discount point data; and 53% report they had to make additional calculations to report the data.

In light of its low marginal value and the significant compliance burdens associated with collecting these items, we recommend their elimination from the HMDA Loan Application Register ("LAR").

*Total Units in Security Property*

The 2015 HMDA Rule requires a lender to report the number of individual dwelling units related to the property securing the covered loan. For an application, the lender must report the number of individual dwelling units related to the property that is offered as security for the covered loan.[20] Institutions continue to report compliance difficulties in reporting total units for certain types of properties, particularly with respect to manufactured home communities, condominium developments, and cooperative housing developments.

Compliance with this data point is problematic as it requires interpretive decisions by reporting institutions. Compliance staff must review property descriptions and make judgments calls on such details as detached units to the subject property. Often, they must reconcile appraisal descriptions that refer to "accessory units" without further description regarding occupancy or purpose of the unit. The simple question of "Is it a shed, a pool house, or a guest room," introduces the risk of an error and compliance violation. When there is any uncertainty, reporting institutions must handle the doubt with human intervention to manually document the

[18] Consumer Fin. Prot. Bureau, Ask CFPB: What are (discount) points and lender credits and how do they work? https://www.consumerfinance.gov/ask-cfpb/what-are-discount-points-and-lender-credits-and-how-do-they-work-en-136/ (accessed Oct. 15, 2019).
[19] CFPB New Data Report, *supra* note 9, at 80.
[20] *See* 12 C.F.R. § 1003.4(a)(31).

reasoning behind the given HMDA classification selected, and this must be consistent with institution precedent and internal policy and procedure.

Achieving reliable regulatory instructions on this data point would require long and technical agency directions that would ultimately depend on the vagaries of consumer use of an individual dwelling. The regulatory result would be added complexity with no clear advancement of overall HMDA objectives. We appreciate the FFIEC's current instructions that financial institution may rely on the best information readily available to it at the time action is taken, but lingering uncertainties or subsequent mistakes are always resolved against the reporting institution in examinations. Close to 50% of our survey respondents assert that this item requires manual updates and calculations on collected data, and 71% report difficulty in collecting it correctly. Given its limited utility, we recommend elimination of the data point from the HMDA LAR.

*Manufactured Homes: Secured Property Type and Land Property Interest*

Our members consistently find the data fields related to manufactured homes – the secured property type and land property interest – to be difficult to report with little, if any, benefit in furthering the purposes of HMDA. Survey respondents found that this data was difficult to collect with accuracy, particularly because the lender often relies on information provided by the customer. Additionally, lenders reported that this information is not collected in the normal course of business and it requires manual updates. Further, both of these data points ranked high for lack of usefulness, as lenders found that there were a limited number of records to which these fields pertain, and these fields do not enhance the lenders' understandings of whether they are fairly meeting the mortgage credit needs of their communities. Manufactured home loans typically have low margins and many lenders originate a very small number of these loans. The Bureau's data shows that of the 7.7 million mortgage loans originated in 2018, only 171,700 were manufactured home loans. Due to the small set of loans to which these data fields apply, combined with the burdens of collecting and reporting and the lack of usefulness, we recommend elimination of these data points and their replacement with a flag to indicate whether the loan is secured by a manufactured home.

2. **The 2015 HMDA Rule requires financial institutions to complete free-form text fields for certain data points when certain circumstances are met. For each free-form text field required by the 2015 HMDA Rule:**
    i. **What are the costs of providing information through the free-form text field?**
    ii. **What are the benefits of providing information through the free-form text field?**
    iii. **Are there better alternatives to providing information than through the free-form text field?**

The 2015 HMDA Rule introduced free form text fields for five data fields, all of which are excluded from the public data set: race; ethnicity; name and version of credit scoring model; reason for denial; and automated underwriting system used and result. These free form text fields are consistently problematic and require a significant amount of resources to ensure accuracy and consistency while providing little, if any, benefit in furthering the purposes of HMDA. For example, the free form text field for reason for denial allows up to 255 characters, and ensuring

the text entered into that field is accurate and consistent requires a time-consuming manual process placing a significant burden on lenders with little to no benefit for the regulators.

We urge the Bureau to eliminate the requirement to collect and report all free form text fields from the HMDA data set. Their removal would substantially reduce the burden on reporting institutions and would have no negative impact in furthering the purposes of HMDA.

The Survey emphasizes the challenges presented by the free-form text fields. Of all the new discretionary data fields, lenders ranked these as the most difficult to collect. In regards to the free form race and ethnicity fields, close to half of the lenders indicated high or moderately high difficulty in collecting and reporting. An overwhelming majority of the lenders viewed the free form race and ethnicity fields as causing borrower confusion, while a similar proportion reported that staff struggled to collect the information correctly. This is especially true for transactions that occur on the telephone rather than in person, and there are significant issues with how this collection occurs.

Lenders also ranked these fields among the lowest on usefulness, with nearly two thirds of lenders indicating low or limited usefulness for the free form race and ethnicity fields. Low usefulness was attributed fairly equally to several factors: (i) limited number of records to which these fields pertain; (ii) the fields fail to enhance the lender's understanding of how it is serving its borrowers or communities; and (iii) the inability of these fields to enhance the lender's understanding of the borrower's credit profile or otherwise contribute to underwriting or pricing of the loan.

The Bureau's own data confirms the limited usefulness of these free-form text fields. In regards to the free form text fields for race and ethnicity, these fields "were sparsely populated. About one percent of the applicants filled in the free-form fields for race or ethnicity."[21] Not only does the sparse response imply limited usefulness due to lack of information being added, it also introduces the potential of response bias, such that information collected in relation to a particular group would not be representative of the group as a whole. Additionally, the Bureau found that different applicants used different words to convey the same information in the free-form text fields. This limited data cannot be used for meaningful analysis to further the purposes of HMDA. In short, it is abundantly clear – the free-form text fields for race and ethnicity provide no benefits yet impose substantial burdens.

For credit scoring model, the Bureau reported that "an overwhelming majority of those filling in this free form text field named some other variation of FICO scoring models and versions not listed in the standard enumeration of the 2018 FIG, most commonly FICO9."[22] There is no clear benefit to having this information, and it appears that FICO9 could be added to the standard enumeration of the FIG, which therefore would account for the "overwhelming majority" of those that filled in this free form text while eliminating the significant burden of using the free form fields.

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[21] CFPB New Data Report, *supra* note 9, at 22.
[22] *Id.* at 47-48.

Given the Survey results and the Bureau's own findings, we recommend elimination of the free-form fields. It is abundantly evident that the costs of collecting and reporting these fields outweigh any benefits they may provide in furthering the purposes of HMDA.

**3. Are there other considerations the Bureau should take into account in deciding whether to propose to eliminate or revise any new data point or revised data point from the 2015 HMDA Rule?**

We appreciate the Bureau seeking input on other considerations for which the Bureau should account to decide whether to propose to eliminate or revise any new or revised data point from the 2015 HMDA Rule. We raise several issues in response to this question including the data collection requirements under HMDA applying to open-end lines of credit and the disclosure of certain HMDA data fields.

*Data Collection and Reporting on Open-End Lines of Credit Do Not Further the Purpose of HMDA.*

We urge the Bureau to eliminate the requirement for collection and reporting data on open-end lines of credit (HELOCs). These data are of low utility, insufficient to justify the outsized costs associated with their collection and submission.

Notably, it was the 2015 HMDA Rule, not the Dodd-Frank Act that imposed data collection and reporting requirements on certain dwelling-secured, open-end lines of credit, including home-equity lines of credit. The Bureau's decision to collect this data does little to advance the statutory objectives of HMDA.

Open-end credit generally is not used to support housing related needs, and therefore, provides less pertinent information regarding whether lenders serve the housing credit needs of their communities. While a modest percentage of HELOCs are used for home improvements, many of these loans are used to finance educational needs, to purchase vehicles, to help in a financial emergency, to consolidate outstanding debt, and for other purposes unrelated to housing. Therefore, this additional data collection provides little information about whether lenders are serving the housing credit needs of their communities.

In fact, the purpose of a HELOC is often difficult, or impossible to ascertain. Often a borrower will list several reasons, or none at all, for applying for a HELOC. Contrasted to closed-end mortgages, the purpose of the HELOC has little, if any, impact on pricing or underwriting decisions.

Other significant limitations on the use of these data arise because closed- and open-end mortgage products are fundamentally too different to effectively fit into a uniform data collection framework. In other words, the notion that HELOCs and closed-end mortgages can be usefully packaged together within a single data collection framework seems misguided. One problem is that factors important to the evaluation of credit risk of a HELOC overlap only partly with those most relevant to the credit risk of a first-lien mortgage. For example, the borrower's credit line utilization rate and the proportion of the borrower's total mortgage debt that resides in the HELOC are both important risk factors for a HELOC. However, these have little relevance to the credit risk of a closed-end mortgage.

Another problem is that, while neither closed- nor open-end mortgage transactions are homogeneous in nature, the sources of heterogeneity differ between them. Thus, data items included in HMDA to account for heterogeneity in the features of closed-end products only partly address heterogeneity of open-end products. For example, a lender may offer a fee reduction or special interest rate to generate HELOC applications, and the interest rate on a HELOC may vary with the amount drawn. HELOCs also vary with respect to lengths of both the draw and amortization periods, which may or may not be mutually exclusive.

This variation curtails the usefulness of the open-end credit data points for fair lending analysis. For example, if a lender offers a fee reduction or special interest rate to generate HELOC applications, then two similarly situated borrowers may have HELOCs with different rates and fees as a result of the time of application—not fair lending concerns.

Moreover, because of the fundamental differences between closed- and open-end mortgage products, incorporating the latter into HMDA requires a multiplicity of special instructions that apply to them. One obvious example is combined LTV, which for HELOCs can be defined in either of two ways: with the numerator equal to the first lien balance as of the origination date of the HELOC, plus the HELOC credit line, or as the sum of first lien balance plus HELOC drawn amount as of the origination date of the HELOC. Thus, a special instruction is required to differentiate these. Other examples of special instructions for open-end products abound in the HMDA Reporting Guide. This plethora of special instructions greatly increases reporting burden, increasing data checking and monitoring costs for both HMDA reporters and consumer compliance examiners.

In short, collection and reporting on data related to open-end lines of credit impose significant burdens while not furthering the purposes of HMDA. The data does not provide useful information about the availability of mortgage credit, pricing patterns, or disparities that would indicate that additional analysis is needed to assess fair lending issues. Indeed, the Bureau's analysis of the 2018 HMDA data examines the data on closed and open-end mortgage transactions separately, a clear indication that Bureau researchers recognize that the inclusion of HELOC data with the aggregate HMDA data may dilute and impair the legitimacy of the conclusions drawn from such data while imposing costly compliance requirements on lenders. This is the reason that the Federal Reserve Board made HELOC reporting optional. We urge the Bureau to eliminate open-end collection and reporting requirements under Regulation C.

*Continuing Concerns Regarding Public Release of Certain Data Points*

While we recognize and appreciate the Bureau's announcement that it will address privacy issues through an Administrative Procedure Act rulemaking to be initiated next year, it is impossible to separate privacy concerns from a discussion of the respective value and burdens of individual data points.[23] The 2015 HMDA Rule assumes diffuse community benefits from the disclosure of this data, but the potential for infringement of individual privacy due to the

[23] For a more complete discussion of our privacy concerns, *see* Letter from Am. Bankers Ass'n (ABA), Consumer Bankers Ass'n (CBA), Consumer Mortg. Coal. (CMC), Hous. Policy Council (HPC), Mortg. Bankers Ass'n (MBA) to Monica Jackson, The Bureau (Nov. 24, 2017), https://www.aba.com/Advocacy/commentletters/Documents/Joint-cl-HMDA112417.pdf.

disclosure of individual data points must be considered. We believe that any attempt to weigh the costs and benefits of particular data points or the HMDA data collection regime generally, that does not consider the potential costs imposed on the individual consumer through the possible dissemination of sensitive non-public information, is insufficient.[24]

Given the ease of consumer re-identification, the Bureau should assume that information disclosed under HMDA will eventually be linked to individual loan applicants.[25] This assumption is only strengthened by the constant advances in machine learning, artificial intelligence and experience applying these technologies to the HMDA dataset. We appreciate the prudent redactions from the public data set the Bureau has made to date with these concerns in mind and encourage a holistic review of the public benefits versus the individual risks of public disclosure.

Finally, our 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 this potential risk.

We look forward to working with the Bureau as it develops its proposed rulemaking on the public disclosure of HMDA data to find a better approach that meets the goals of HMDA while protecting consumers.

4. **Are there new or revised data points under the 2015 HMDA Rule for which more explanation is needed to clarify the collection and reporting requirements? If so, please identify any data point for which additional clarity could reduce the costs associated with collecting and reporting the data and improve the value of the data in furthering the purposes of HMDA.**

As a first request, and in light of the on-going changes and clarifications to HMDA rules and regulations, the Associations respectfully ask that the Bureau afford institutions with continued leniency during the course of its HMDA-related examinations, as it has done previously in policies announced in 2017. Our members request proper consideration of the significant systems and operational challenges that persist in complying with the revised regulations. As such, we urge the regulators to maintain the policy of not requiring data resubmission unless data errors are "material," and not assessing penalties with respect to errors in data collected in 2019 and reported in 2020.

Our members appreciate the Bureau and FFIEC agencies past approach to HMDA examinations of the 2018 HMDA data collection and reporting process that permitted financial institutions an opportunity to identify gaps in their good faith implementation efforts and that

[24] Note that this is not an argument for making this data unavailable to regulators. The Bureau and other regulators have the supervisory authority to require production of all data in the HMDA data set and more upon demand.
[25] *See* comments referenced in fn. 23 for a more thorough discussion of re-identification risk.

allowed them to make improvements in their HMDA compliance management systems for future years. These so-called "diagnostic examinations" were of considerable relief to affected institutions and helped advance and incentivize proper implementation of these reporting requirements—a benefit to all stakeholders.

Second, we have compiled a list of questions and suggestions from our members regarding needed clarifications on the collection and reporting requirements of the 2015 HMDA Rule. That list is attached as Appendix B to this letter. We note that this is not a complete, inclusive list, and we expect additional questions and suggestions from our member companies. We look forward to working with the Bureau to address the questions and suggestions in Appendix B, as well as additional issues that need clarification to reduce costs and improve the integrity, quality, and value of the data.

**The Bureau seeks to comments to assess the extent to which requiring reporting of information on business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling imposes burdens on financial institutions and furthers HMDA's purposes.**

**The Bureau seeks information to assist in deciding whether to propose to exclude such transactions from HMDA's requirements, including information about the following:**

5. **The value that data on such transactions provides in serving HMDA's purposes;**

6. **Other benefits associated with reporting such transactions; and**

7. **The burden imposed by the requirement to report data on such transactions.**

*Answer to Questions 5-7*

Some of the Associations are submitting a letter focusing exclusively on multifamily and commercial mortgage lending. As such, we incorporate by reference that comment letter, and emphasize the following key points made in that letter.

*Business-to-Business Multifamily Loans*

The substantial regulatory burden of HMDA reporting of business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling (business-to-business multifamily loans) more than outweighs the potential value of such data in serving HMDA purposes. Potential HMDA value is minimal because: (i) most HMDA data fields are inapplicable to business-to-business and/or multifamily loans; (ii) much of the HMDA data on loan terms and underwriting (e.g., data on non-amortizing features) does not have the same information value in a commercial-lending context because of differences in common loan structures and in underwriting; (iii) data on multifamily affordable units paints an incomplete and potentially misleading picture of actual affordability and may be publicly available outside of HMDA; and (iv) any HMDA value served by location data in multifamily lending is outweighed by privacy risk to borrowers (e.g., 2018 HMDA data showed 19,172 Census tracts with only one or two multifamily loans reported). Moreover, the extensive materials accompanying the Bureau's release of the 2018 HMDA data related almost exclusively to single-family HMDA

data, as the materials focused on data fields that are inapplicable to business-to-business or multifamily lending.

Moreover, the corresponding collective burden on the entire multifamily lending industry (including 2,828 depository and non-depository lenders) that must implement a HMDA reporting regime designed with consumer lending in mind to commercial multifamily lending far outweighs any value added by this data. The Survey demonstrates that the regulatory burden of reporting CLTV in a commercial context and reporting multifamily affordable units is exceptionally burdensome.[26]

For these reasons, we believe that an appropriate result of this rulemaking should be a determination that multifamily loans should be exempt from HMDA.

In addition to reflecting an appropriate balance of benefits and burden, the exemption of multifamily loans from Regulation C would be fully consistent with the intent of Congress. For example, Congress named the statute the *Home Mortgage* Disclosure Act and enacted it to respond to congressional findings regarding "home financing." Multifamily loans are not "home mortgages" or "home financing." The Dodd-Frank Act designated HMDA to be a "federal *consumer* financial law" and an "enumerated *consumer* law," and transferred HMDA from the Federal Reserve to the *Consumer* Financial Protection Bureau, a new federal agency created by Dodd-Frank to focus on "*consumer* financial products and services." Multifamily loans and other business- or commercial purpose loans are not "consumer financial products or services," and business-entity borrowers are not "consumers." Accordingly, amending Regulation C to multifamily loans would be fully in harmony with the intent of Congress.[27]

*Business- or Commercial-Purpose Loans*

At a broader level, the Associations urge the Bureau to reassess the decision to cover business- and commercial-purpose loans made to purchase, refinance or improve a dwelling, through a similar lens. Similar to the discussion above, business or commercial loans are not the type of "home-financing" that HMDA was enacted to address. That is, the findings of Congress upon which HMDA was enacted concern failures "to provide adequate *home financing* to

[26] STRATMOR Survey, slides 17-18 (2019) (CLTV ranked third most difficult data field, behind only Free form race/ethnicity fields and Multifamily affordable units. Narrative responses related to multifamily lending included: "*Affected Commercial Loans mostly*:" "*Value relied on not available in commercial LOS-lender must manually enter and struggle with including all collateral*"); slides 16 and 21 (*Multifamily affordable units* ranked second most difficult date field. Narrative comments included: "*There is no place to verify which units are 'affordable' even HUD said they didn't like this reporting requirement*." "*No one besides full time HMDA employees understands this field and requires questions to the customer after closing, which is not professional*." "*This only affects the commercial area and is a manual input by lenders*." "*Requirements are onerous and not easily understood by staff*." "*Particularly with withdrawn and denied applications, information may not be available since it is typically not collected by the loan officer, can be validated only through an appraiser or other underwriting confirmation*." … "*Difficult for lenders to understand how to properly enter this HMDA data and more guidance is needed or field removed manual data entry*.").

[27] For purposes of our recommendation, we believe that loans secured by mixed-use multifamily properties should be considered to be another form of multifamily loan, so that a HMDA exemption for loans secured by multifamily properties would apply equally to loans secured by mixed-use multifamily properties.

qualified applicants on reasonable terms and conditions."[28] Nothing in HMDA pronounces an intent to cover business lending by private sector market players.

Outside of legislative intent, the Bureau should consider that commercial purpose loans are originated differently than residential mortgage loans, and do not generally fit the template set forth under Regulation C. Commercial- and business-purpose loans are typically provided to non-natural persons, and as such, there can be no collection of race, ethnicity, age or sex data. As a result, for example, any fair lending analysis that might be based on these protected factors therefore not be operative. In addition, many of the data points collected under Regulation C, including QM status, credit score and debt to income ("DTI") ratio, are irrelevant to commercial purpose loans.

Note also that in the commercial context, lenders structure deals in varying ways. Lenders will consider different kinds of collateral at various points in the loan process. Commercial lenders will often require a residential property as additional collateral out of an "abundance of caution," notwithstanding that the loan has a business purpose that is unrelated to the property. This typical financing practice does not serve as a good reference point for understanding whether lenders are properly serving their community's housing needs by providing adequate *home financing* to qualified applicants on reasonable terms and conditions.

In addition, commercial lending programs are often proprietary, and are negotiated among business-savvy market players. Often, lending considerations are more complex than just assuring repayment by the customer. Such loans are structured with multiple non-housing considerations in mind, including the business viability of the applicant's venture, mitigation of risks associated with the property or business, market and loan terms, as well as the needs of the investor. Again, this is several steps away from the lending HMDA was enacted to address.

More importantly, however, the reporting of commercial-purpose transactions adds significant layers of burdens. The data collection and reporting in commercial- or business-purpose loans are demanding because new systems must be created that operate separately, but in tandem with, the lender's residential systems. There are various reasons for this, including differences in staff that typically handle commercial vs. residential mortgage loans; different licensing and registration requirements for loan originators; different business processes in commercial lending; customer relations and negotiations that are entirely distinct; different LO compensation requirements; different application, documentation and other processes; different underwriting; and differences in where within the organization that credit decisions are handled; among others.

In short, commercial and business transactions are not similar to residential transactions, and as such, lenders are forced to establish entirely separate reporting processes or to purchase dedicated software that focuses on this type of lending alone, if available. The dual compliance systems that must be set up at lending institutions, and the early-process detection systems that must assure that loan applications are correctly channeled through the appropriate compliance system, are extremely expensive and duplicative, for no sufficient reason.

[28] 12 U.S.C. § 2801(a) (emphasis added).

Accordingly, any earnest effort to reduce burdens should also consider eliminating HMDA reporting of commercial- and business-purpose lending generally.

## V. Conclusion

We support the Bureau's efforts to appropriately tailor Regulation C in a manner that balances the fundamental objectives of HMDA, while also ensuring that it is not done in a manner that creates unnecessary and undue burdens on reporting institutions.

While this ANPR focuses on the relevant, reportable data elements currently required under Regulation C, we also ask the Bureau to revisit its requirements relating to the frequency of data reporting. Specifically, beginning in 2020, the 2015 HMDA Rule will require quarterly reporting for any institution that reported a combined total of at least 60,000 applications and covered loans in the preceding calendar year. Quarterly reporting imposes a significant ongoing compliance burden, which will substantially increase the ongoing compliance burdens shown in the Survey. The burdens of quarterly reporting outweigh the benefits, especially considering that such data is likely to have significantly more errors than data reported annually, as it will not be subject to the rigorous scrubbing typically performed prior to the annual submission of the data. We urge the Bureau to remove the quarterly data reporting requirement and keep all HMDA covered institutions on the same reporting schedule.

The Associations look forward to working with the Bureau as it moves forward with this ANPR and any other associated rulemakings to modify Regulation C. The Associations appreciate the opportunity to comment on the ANPR. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

**American Bankers Association**

**Bank Policy Institute**

**Consumer Bankers Association**

**Housing Policy Council**

**Mortgage Bankers Association**

# APPENDIX A

# STRATMOR Group
# HMDA Reporting Assessment Survey Results

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# HMDA REPORTING ASSESSMENT SURVEY - RESULTS

September 6, 2019

Powering Performance. Together.

# SURVEY BACKGROUND

- The American Bankers Association (ABA) engaged STRATMOR Group, an independent mortgage banking consulting firm, to facilitate a survey to gather data which would be useful in answering the questions posed by the CFPB in the Advance Notice of Proposed Rulemaking issued on May 3, 2019.
- The survey was circulated to members of a number of industry trade groups, including the ABA, Bank Policy Institute, Consumer Bankers Association, Housing Policy Council, and Mortgage Bankers Association.
- Questions used were the result of a collaborative effort of the trade groups
- STRATMOR facilitated the survey, compiled results, and prepared this Power Point presentation and commentary, which was also edited by the joint associations.

# SURVEY BACKGROUND

- With respect to the survey structure and responses:
  - Not every respondent answered every question
  - Sample sizes are noted throughout the presentation
  - Opportunity was given for free form comments
  - The survey was conducted from June 20 through July 26, 2019

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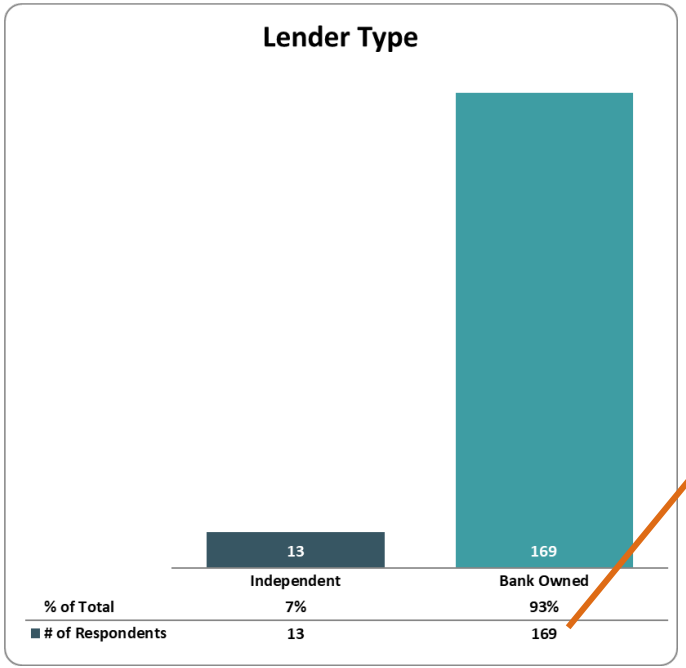
# RESPONDENT PROFILE

# Which best describes your company?

*N=182*




| Sample Size | 2,951 | *All Banks who reported in 2018 HMDA* |
|---|---|---|

| | Confidence Level | | |
|---|---|---|---|
| Margin of Error | 95% | 90% | 85% |
| 5.0% | 340 | 248 | 194 |
| 7.5% | 161 | 116 | 89 |
| 10.0% | 93 | 66 | 51 |
| 15.0% | 42 | 30 | 23 |

The final sample included 182 lenders that were primarily (93%) Banks or Bank Owned/Affiliated mortgage entities.

Using the population of Bank lenders in HMDA which was 2,951 for 2018, we can say that the findings of this survey are representative of the overall population of banks with a 95% confidence level and a 7.5% margin of error.

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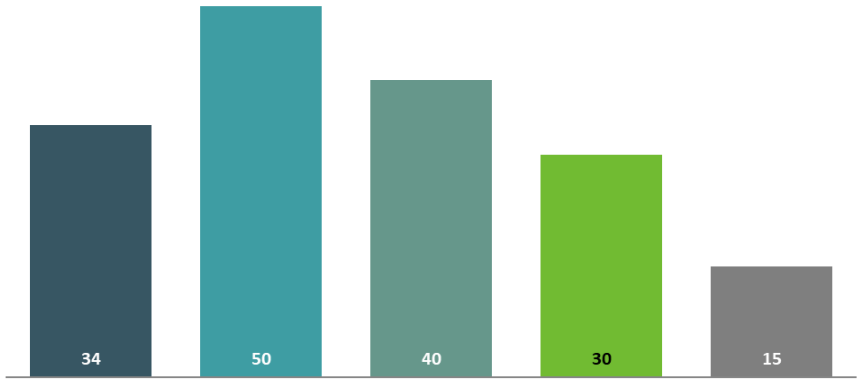
# What were your total Bank Assets as of March 31, 2019?

*N=169*

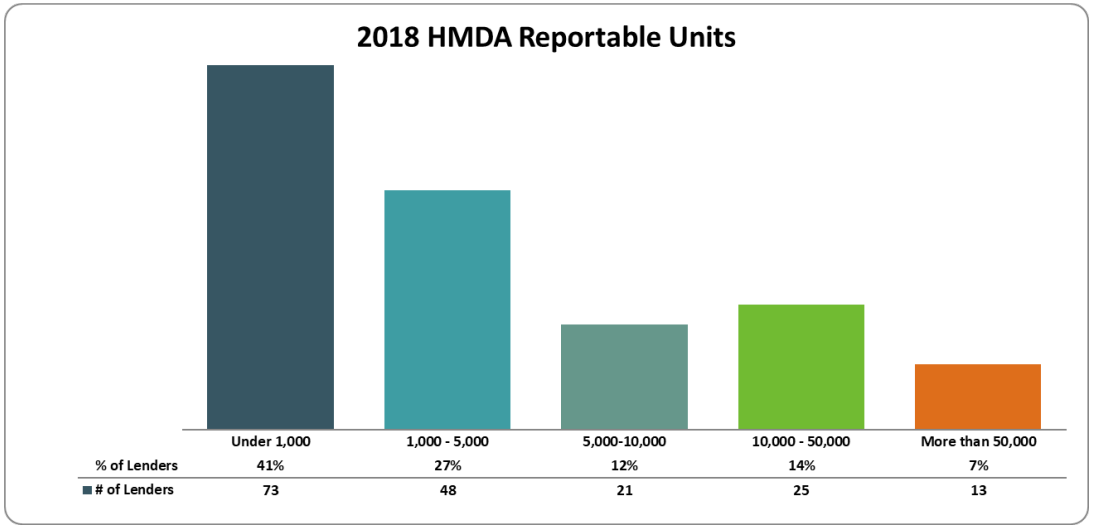



| | Less than $500M | Between $500M & $2B | Between $2B & $10B | Between $10B & $50B | Over $50B |
|---|---|---|---|---|---|
| % of Total | 20% | 30% | 24% | 18% | 9% |
| # of Respondents | 34 | 50 | 40 | 30 | 15 |

The respondents represent a good cross section of banks in terms of asset size, as shown on the bar graph.

# What were your total HMDA reportable units for 2018?

*N=180*




Similar to the bank asset size range, the respondents represent a good cross section of mortgage volume (HMDA reportable units), as shown in the bar graph.

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# HMDA IMPLEMENTATION & REPORTING RESOURCES

# FTE CLASSIFICATIONS

- The survey respondents were given the following definitions for the classification of Full Time Equivalent Employees (FTEs):
  - ***Technology FTEs*** include individuals working in the technology development, testing, maintenance and support groups. For banks, this may include FTE in the Bank technology areas that are assigned to mortgage on a direct basis or on a project basis.
  - ***Non-technology FTEs*** include individuals working in any non-technology area which supported HMDA implementation including compliance, legal, post closing, training, sales or sales administration, and fulfillment areas such as processing, underwriting or closing.

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# How many FTEs are dedicated to reporting HMDA - overall?

*N=180*

| | Mean | Median | High | Low | # of lenders who reported 0 | % of lenders who reported 0 |
|---|---|---|---|---|---|---|
| Technology FTE | 1.70 | 0.25 | 61.00 | - | 44 | 24% |
| Non-Technology FTE | 6.06 | 3.00 | 133.00 | - | 9 | 5% |
| **Total FTE** | **7.76** | **3.25** | **194.00** | **-** | | |

In this sample of lenders there were:

- 305 dedicated Tech FTEs
  - 76% of lenders have at least a partial HMDA dedicated Tech FTE
- 1,085 dedicated Non-tech FTEs
  - 95% of lenders have at least a partial HMDA dedicated Non-Tech FTE

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# How many FTEs are dedicated to reporting HMDA – by HMDA reportable units?

*N=180*

| | HMDA REPORTABLE UNITS | | | | |
|---|---|---|---|---|---|
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *Lender Sample* | *73* | *48* | *21* | *25* | *13* |
| Avg Technology FTE | 0.72 | 0.75 | 0.52 | 2.27 | 12.38 |
| Avg Non-Technology FTE | 2.55 | 5.26 | 3.79 | 8.98 | 30.64 |
| **Avg Total FTE** | **3.27** | **6.01** | **4.31** | **11.25** | **43.01** |

As expected, the number of FTEs dedicated to reporting HMDA data varies significantly with mortgage activity.

Even for lenders which reported fewer than 1,000 units in 2018, the average FTE count dedicated to HMDA reporting was 3.3.

Assuming an average per FTE cost of $65,000 annually, this represents ongoing annual personnel costs of $214,500 in support of HMDA for the average lender, exclusive of any cost allocation for time spent by loan officers and fulfillment personnel in the process.

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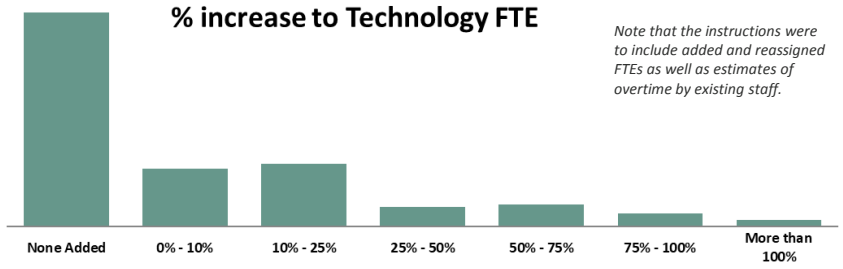
# 2015 HMDA CHANGES - IMPLEMENTATION RESOURCES

# By what amount did you have to increase your Technology FTEs?

*N=178*




| | None Added | 0% - 10% | 10% - 25% | 25% - 50% | 50% - 75% | 75% - 100% | More than 100% |
|---|---|---|---|---|---|---|---|
| % of Total | 54% | 15% | 16% | 5% | 6% | 3% | 2% |
| # of Respondents | 96 | 26 | 28 | 9 | 10 | 6 | 3 |

| Technology FTE | | | | | |
|---|---|---|---|---|---|
| | HMDA REPORTABLE UNITS | | | | |
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *Lender Sample* | *73* | *47* | *21* | *25* | *11* |
| **None Added** | 74% | 49% | 52% | 24% | 18% |
| **0% - 10%** | 8% | 15% | 29% | 16% | 18% |
| **10% - 25%** | 10% | 19% | 10% | 24% | 36% |
| **25% - 50%** | 5% | 4% | 5% | 8% | 0% |
| **50% - 75%** | 1% | 9% | 5% | 12% | 9% |
| **75% - 100%** | 0% | 4% | 0% | 12% | 9% |
| **More than 100%** | 1% | 0% | 0% | 4% | 9% |

82 lenders, or 46% of the sample, increased Technology FTEs to implement the 2015 HMDA rule changes.

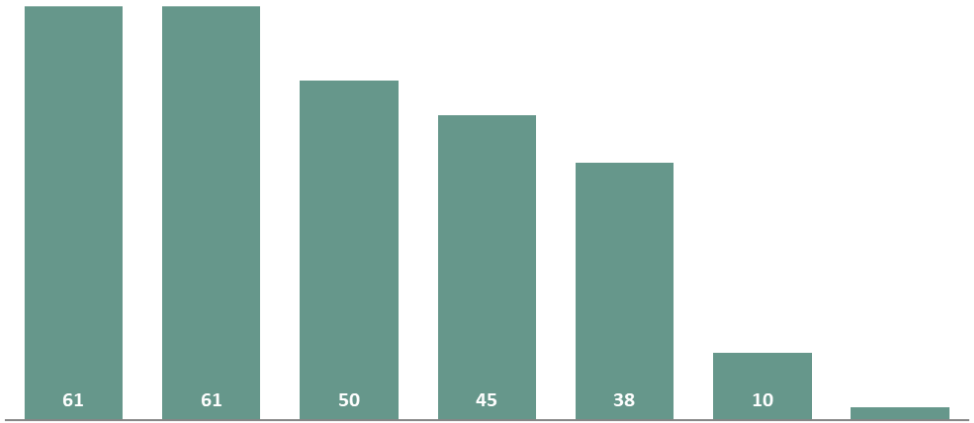
The larger lenders were more likely to have added Technology FTEs.

While not a perfect calculation, using the current FTE and the mid-point of the % increase ranges, we can estimate that, for this sample, 80 Technology FTEs (an average of 1 FTE per lender) were added to lender rosters (for those lenders which added FTEs) to implement the 2015 HMDA rule changes.

# What were the primary drivers of added FTEs?

*N=82*

## Drivers of added FTEs



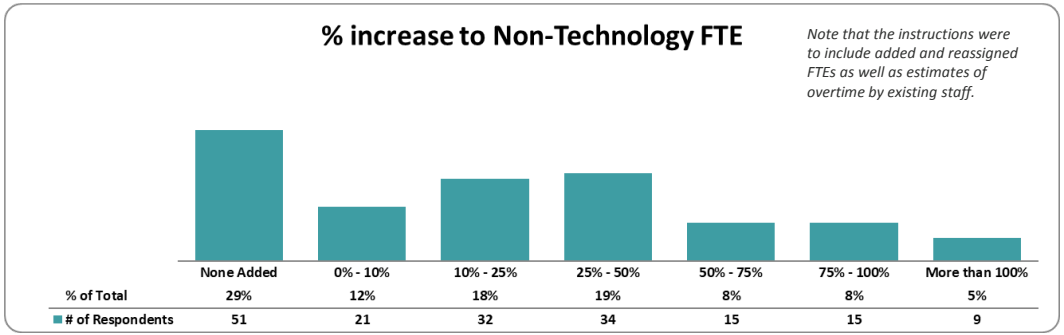

| | Updates to LOS | New LOS fields | Update current software | Coordinate with vendors | Install new software | Update internal capabilities | First time reporting |
|---|---|---|---|---|---|---|---|
| % of Respondents | 74% | 74% | 61% | 55% | 46% | 12% | 2% |
| # of Respondents | 61 | 61 | 50 | 45 | 38 | 10 | 2 |

For those lenders which did increase FTE, the main reasons given were updating the LOS, and relevant software and fields.

Note: Lenders could choose more than one driver, so the totals add to more than 100%.

# By what amount did you have to increase your Non-Technology FTEs?

*N=177*




| Non-Technology FTE | | | | | |
|---|---|---|---|---|---|
| | HMDA REPORTABLE UNITS | | | | |
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *Lender Sample* | *73* | *46* | *21* | *25* | *11* |
| **None Added** | 48% | 13% | 24% | 12% | 18% |
| **0% - 10%** | 16% | 11% | 5% | 8% | 9% |
| **10% - 25%** | 14% | 17% | 24% | 16% | 36% |
| **25% - 50%** | 12% | 30% | 10% | 32% | 9% |
| **50% - 75%** | 5% | 11% | 10% | 8% | 18% |
| **75% - 100%** | 4% | 13% | 14% | 8% | 9% |
| **More than 100%** | 0% | 4% | 14% | 16% | 0% |

126 lenders, or 71% of the respondents, added non-technology FTEs to implement new HMDA requirements.

In the groups with over 1,000 reportable HMDA units, between 76% and 88% of lenders increased non-technology FTEs in order to facilitate the new HMDA reporting requirements.

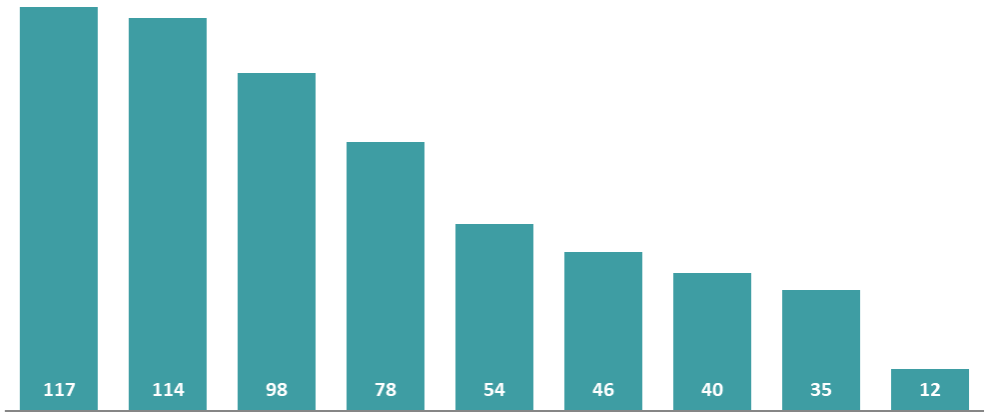
Using same calculation as previously described, those lenders which added FTE added 194 FTE or 1.58 FTE per lender.

The darker green shading shows the percentage increase level for each size group with the highest number of responses.

# What were the primary drivers of increased Non-Technology FTE?

*N=126*

## Drivers of increased non-technology FTEs




| | Integrity of Data | Scrub Data | Compliance | Updated Workflow | Reporting | Analytics | Add Training Staff | Internal Comm. | External Comm. |
|---|---|---|---|---|---|---|---|---|---|
| % of Respondents | 93% | 90% | 78% | 62% | 43% | 37% | 32% | 28% | 10% |
| # of Respondents | 117 | 114 | 98 | 78 | 54 | 46 | 40 | 35 | 12 |

The two main reasons for addition of non-technology FTEs were review of data integrity and scrubbing data submissions.

Note that respondents could choose more than one driver, so the responses total more than 100%.

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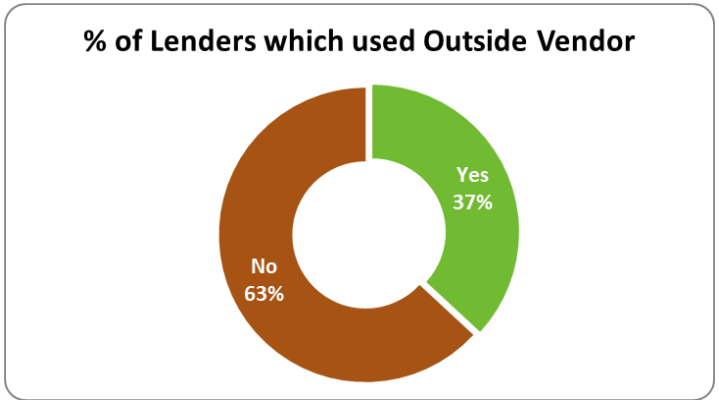
# Did you engage an outside vendor(s) to work on the HMDA project? What was the amount spent with all vendors combined?

*N=179*




37%, or 66 lenders, engaged a vendor for implementation.

The average (mean) technology vendor spend was $335,966.

The average (mean) non-technology vendor spend was $87,228.

*Note: Vendors would include such categories as legal, training, software development and integration, and LOS development*

| | Mean | Median | High | Low |
|---|---|---|---|---|
| Vendor Spend - Technology | 335,966 | 10,000 | 7,000,000 | - |
| Vendor Spend - Non-Technology | 87,228 | 3,000 | 1,410,000 | - |
| **Total Spend** | **423,195** | **13,000** | **8,410,000** | **-** |

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# What was the amount spent with all vendors combined?

*N=179*

| | HMDA REPORTABLE UNITS | | | | |
|---|---|---|---|---|---|
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *% of Lenders w/ Yes* | *22* | *21* | *7* | *11* | *5* |
| Avg Vendor Spend - Technology | 6,830 | 36,105 | 75,000 | 1,081,940 | 2,390,667 |
| Avg Vendor Spend - Non-Technology | 4,060 | 33,132 | 1,000 | 97,691 | 1,036,667 |
| **Avg Total Spend** | **10,890** | **69,237** | **76,000** | **1,179,631** | **3,427,333** |

The amount spent with vendors ranged from an average of $10,890 for those organizations with less than 1,000 reportable HMDA units, to an average of $3.4 million for the large institutions. More was spent with vendors for technology services than for other non-technology services.

The per loan cost of these averages is in the $21- $40 per loan range, on vendor services alone.

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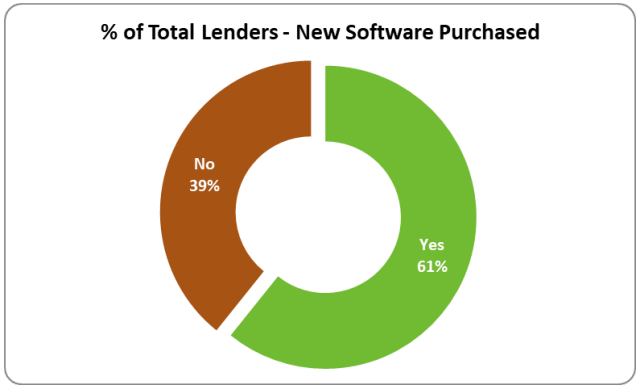
# Did you purchase new software or update existing software specifically for HMDA? What was the amount spent to purchase or update existing software?

*N=178*




The majority of lenders purchased new software to implement HMDA changes (108 lenders or 61%).

The average (mean) spend was $412,874 for HMDA software.

| | Mean | Median | High | Low |
|---|---|---|---|---|
| Software Spend | 412,874 | 10,000 | 14,389,530 | 500 |

| | HMDA REPORTABLE UNITS | | | | |
|---|---|---|---|---|---|
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *Lenders who purchased software* | *39* | *30* | *14* | *17* | *8* |
| **Average Software Spend** | 10,066 | 15,822 | 154,688 | 749,513 | 4,194,006 |

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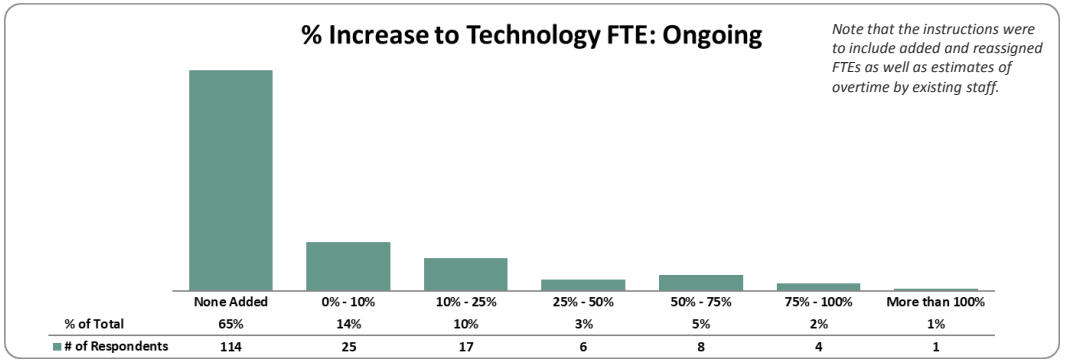
# ONGOING RESOURCES

# By what amount did you have to increase your Technology FTEs?

*N=175*




For 114, or 65% of the lenders, no additional technology FTEs were required for ongoing reporting.

| Technology FTE | | | | | |
|---|---|---|---|---|---|
| | HMDA REPORTABLE UNITS | | | | |
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *Lender Sample* | *71* | *46* | *20* | *25* | *12* |
| **None Added** | 75% | 59% | 95% | 40% | 33% |
| **0% - 10%** | 13% | 15% | 0% | 20% | 33% |
| **10% - 25%** | 10% | 13% | 0% | 8% | 17% |
| **25% - 50%** | 0% | 4% | 5% | 12% | 0% |
| **50% - 75%** | 1% | 7% | 0% | 12% | 8% |
| **75% - 100%** | 0% | 2% | 0% | 8% | 8% |
| **More than 100%** | 1% | 0% | 0% | 0% | 0% |

# What were the primary drivers of added FTEs?

*N=61*

## Drivers of added FTEs

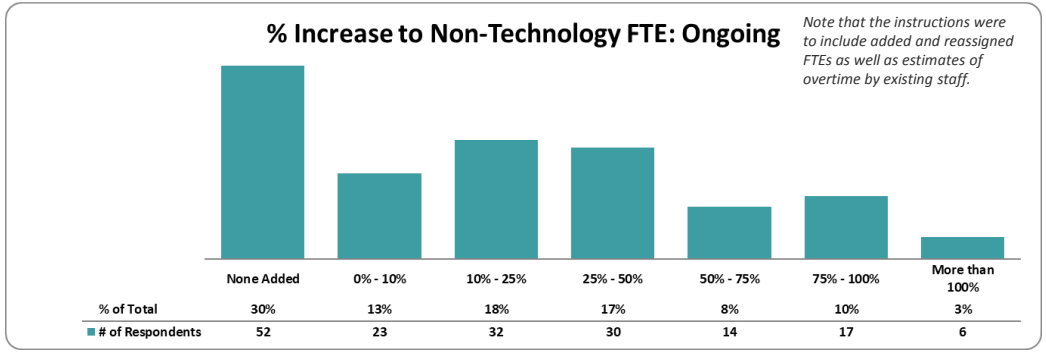
| | Monitoring for accuracy / integrity of data | Scrubbing / Reconciling data | Report - quarterly LARS and annual | Analytics |
|---|---|---|---|---|
| % of Respondents | 72% | 66% | 44% | 41% |
| # of Respondents | 44 | 40 | 27 | 25 |

For those lenders which did increase FTE, the primary purpose was the monitoring and scrubbing of data to insure data integrity.

Note: lenders could choose more than one driver, so the totals are greater than 100%.

# By what amount did you have to increase your Non-Technology FTEs?

*N=174*




| Non-Technology FTE | | | | | |
|---|---|---|---|---|---|
| | HMDA REPORTABLE UNITS | | | | |
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *Lender Sample* | *71* | *46* | *20* | *25* | *11* |
| **None Added** | 45% | 20% | 25% | 12% | 18% |
| **0% - 10%** | 15% | 13% | 5% | 12% | 18% |
| **10% - 25%** | 17% | 17% | 30% | 8% | 36% |
| **25% - 50%** | 14% | 20% | 15% | 28% | 9% |
| **50% - 75%** | 4% | 11% | 5% | 12% | 18% |
| **75% - 100%** | 4% | 15% | 15% | 16% | 0% |
| **More than 100%** | 0% | 4% | 5% | 12% | 0% |

70% of lenders added non-technology FTEs to cope with the increased data scrubbing and data monitoring required with the new HMDA dataset.

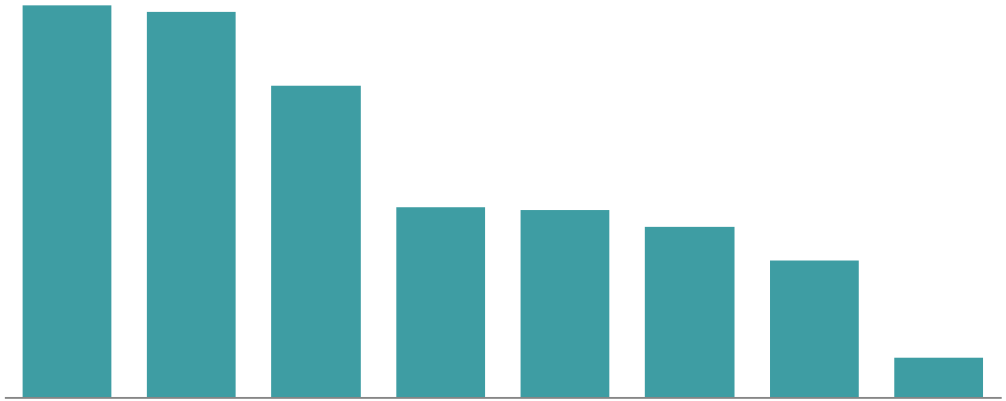
Lenders in the 10,000 – 50,000 reportable unit range had the largest percentage increase in non-technology FTEs.

The darker green shading indicates the highest percentage levels of increase for that unit group.

# What were the primary drivers of added non-tech FTEs?

*N=122*

## Drivers of non-technology FTE increases



| | Scrub Data | Integrity of Data | Compliance | Reporting | Training staff | Analytics | Internal Comm. | External Comm. |
|---|---|---|---|---|---|---|---|---|
| % of Respondents | 96% | 94% | 76% | 47% | 46% | 42% | 34% | 10% |
| # of Respondents | 117 | 115 | 93 | 57 | 56 | 51 | 41 | 12 |

For those lenders which did increase non-technology FTEs, the main drivers were assuring integrity of data, followed by general compliance review work.

Note: lenders could choose more than one driver, resulting in totals which are greater than 100%.

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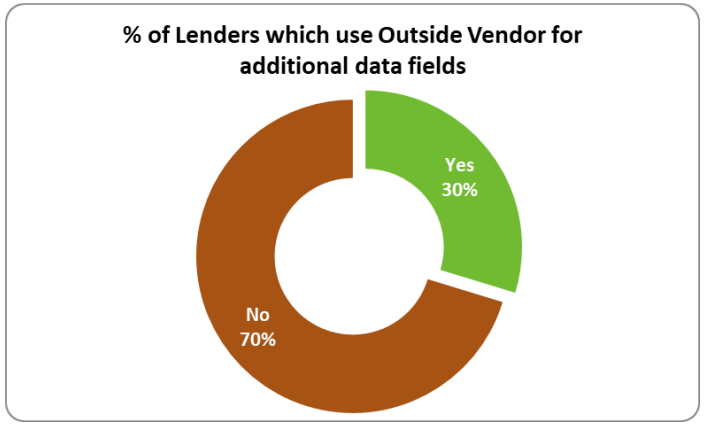
# Did you engage an outside vendor(s) to report the additional data fields required by the 2015 HMDA rule? What was the amount spent with all vendors combined?

*N=175*




52 lenders or Less than one-third (30%) of lenders use a vendor to support ongoing HMDA reporting.

The average technology spend was $112,606.

The average non-technology spend was $20,071

*Note: Vendors would include such categories as legal, training, software development and integration, and LOS development*

| | Mean | Median | High | Low |
|---|---|---|---|---|
| Vendor Spend - Technology | 112,606 | 6,100 | 2,500,000 | - |
| Vendor Spend - Non-Technology | 20,071 | - | 500,000 | - |
| **Total Spend** | **132,677** | **6,100** | **3,000,000** | **-** |

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# What was the amount spent in 2018 with all vendors combined?

*N=52*

| | HMDA REPORTABLE UNITS | | | | |
|---|---|---|---|---|---|
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *# of Lenders w/ Yes* | *18* | *17* | *5* | *8* | *4* |
| Avg Vendor Spend - Technology | 6,385 | 22,195 | 98,500 | 186,820 | 916,667 |
| Avg Vendor Spend - Non-Technology | 885 | 8,100 | 75 | 14,640 | 217,000 |
| **Avg Total Spend** | **7,270** | **30,295** | **98,575** | **201,460** | **1,133,667** |

The average vendor spend for ongoing HMDA reporting in 2018 ranged from $7,270 for the under 1,000 unit group, to $1.1 million for the largest lenders

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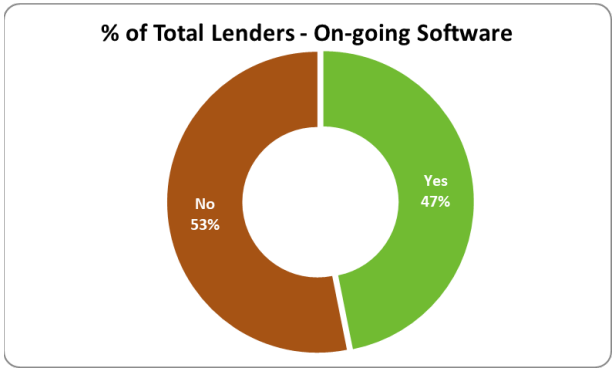
# Did you pay ongoing expenses for software that was specifically built to capture the additional data required by the 2015 HMDA rule?

*N=175*




82, or 46% of lenders use dedicated software to report HMDA.

The average (mean) annual spend for this software is $88,281.

| | Mean | Median | High | Low |
|---|---|---|---|---|
| Software Spend | 88,281 | 10,000 | 4,250,000 | 1,000 |

| | HMDA REPORTABLE UNITS | | | | |
|---|---|---|---|---|---|
| | Under 1,000 | 1,000 - 5,000 | 5,000-10,000 | 10,000 - 50,000 | More than 50,000 |
| *Lenders with on-going software spend* | *30* | *27* | *8* | *11* | *6* |
| **Average Software Spend** | 5,644 | 15,558 | 46,714 | 99,778 | 1,145,000 |

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# DATA FIELDS – DIFFICULTY IN REPORTING AND USEFULNESS OF DATA

# General Comments on the Data Ratings

- The respondents clearly indicated in their ratings and comments that many of the fields now required are of limited value in monitoring their mortgage operations in terms of effectively serving their communities.
- In general, the fields which are the most removed from traditional first mortgage residential lending are viewed as the most problematic.
- Also, free form fields are used in a small minority of cases, and represent significant effort versus the usefulness of the data.

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# Please rate how easy or difficult it is to collect and report the following data fields per the current guidance.

| | N | Aggregate Difficulty Rating | Median Difficulty Rating | # of lender rating 7 or above | % of lenders rating 7 or above | Data requirements cause borrower confusion | Can't collect during telephone application | Staff has a hard time collecting correctly | Requires additional calculations on collected data | Require manual updates or calculations on collected data | Not collected in the normal course of business | Not used to underwrite or price the loans | Definitions unclear | Reporting requirements needs clarification | Other - (See slides to follow) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Multifamily Affordable Units** | 118 | 6.13 | 6.00 | 51 | 43% | 27.5% | 7.8% | 70.6% | 21.6% | 39.2% | 56.9% | 45.1% | 37.3% | 19.6% | 15.7% |
| **Free form race/ethnicity fields** | 143 | 6.08 | 6.00 | 67 | 47% | 79.1% | 16.4% | 70.1% | 4.5% | 23.9% | 19.4% | 16.4% | 19.4% | 20.9% | 17.9% |
| **Combined loan-to-value ratio** | 138 | 6.01 | 6.00 | 61 | 44% | 0.0% | 8.2% | 47.5% | 72.1% | 72.1% | 13.1% | 9.8% | 29.5% | 29.5% | 24.6% |
| **Debt-to-income ratio** | 141 | 5.90 | 6.00 | 59 | 42% | 5.1% | 10.2% | 50.8% | 69.5% | 64.4% | 5.1% | 8.5% | 32.2% | 33.9% | 20.3% |
| **Manufactured Home Land Property Interest** | 101 | 5.45 | 5.00 | 36 | 36% | 25.0% | 16.7% | 69.4% | 16.7% | 44.4% | 55.6% | 38.9% | 30.6% | 27.8% | 16.7% |
| **Business or Commercial Purpose** | 100 | 5.39 | 5.00 | 38 | 38% | 28.9% | 10.5% | 68.4% | 21.1% | 42.1% | 39.5% | 34.2% | 65.8% | 55.3% | 21.1% |
| **Manufactured Home Secured Property Type** | 97 | 5.34 | 5.00 | 33 | 34% | 24.2% | 18.2% | 66.7% | 21.2% | 39.4% | 51.5% | 36.4% | 27.3% | 21.2% | 21.2% |
| **Automated Underwriting System** | 125 | 5.34 | 5.00 | 43 | 34% | 14.0% | 2.3% | 27.9% | 20.9% | 55.8% | 14.0% | 2.3% | 32.6% | 41.9% | 27.9% |
| **Total Units (in Security Property)** | 111 | 5.14 | 5.00 | 32 | 29% | 25.0% | 6.3% | 71.9% | 28.1% | 46.9% | 31.3% | 37.5% | 18.8% | 18.8% | 28.1% |
| **Amount of lender credits** | 124 | 4.89 | 5.00 | 36 | 29% | 19.4% | 11.1% | 27.8% | 41.7% | 52.8% | 16.7% | 8.3% | 38.9% | 30.6% | 16.7% |
| **Total discount points** | 117 | 4.84 | 4.00 | 34 | 29% | 8.8% | 11.8% | 32.4% | 52.9% | 58.8% | 5.9% | 14.7% | 44.1% | 26.5% | 11.8% |
| **Total origination charges** | 129 | 4.67 | 4.00 | 35 | 27% | 5.7% | 14.3% | 42.9% | 51.4% | 57.1% | 8.6% | 17.1% | 34.3% | 25.7% | 11.4% |
| **Reasons for denial** | 132 | 4.26 | 4.00 | 29 | 22% | 34.5% | 20.7% | 55.2% | 34.5% | 65.5% | 13.8% | 17.2% | 44.8% | 34.5% | 10.3% |
| **Interest rate at closing or account opening** | 107 | 4.21 | 4.00 | 19 | 18% | 10.5% | 10.5% | 31.6% | 31.6% | 63.2% | 10.5% | 5.3% | 31.6% | 36.8% | 5.3% |
| **Open-End Line of Credit** | 61 | 4.15 | 3.00 | 10 | 16% | 30.0% | 20.0% | 60.0% | 30.0% | 30.0% | 40.0% | 10.0% | 30.0% | 30.0% | 20.0% |
| **Reverse Mortgage** | 52 | 3.92 | 2.00 | 10 | 19% | 0.0% | 0.0% | 10.0% | 10.0% | 30.0% | 10.0% | 10.0% | 20.0% | 20.0% | 70.0% |

- The respondents were asked to rate the level of difficulty in collecting and reporting the data fields required on a scale of 1-10, with 10 being the most difficult.
- They were also asked to indicate the reason for any difficulty rating of “7” or above. The denominator for the percentages listed in the reason is the number of lenders that rated the field “7” or above.
- The darker green shading indicates the reasons with the highest percentages of difficulty ratings of “7” or above.
- As can be seen, many fields are problematic for banks in terms of collection of the data, many require manual effort, and the race/ethnicity fields are believed to cause borrower confusion.

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# DIFFICULTY – OTHER REASONS

Below are comments from respondents with respect to their rationale for rating a particular item as “difficult to obtain”:

| | |
|---|---|
| **Reasons for denial** | • Data is not stored electronically on the core<br>• Translating reasons given to reportable codes<br>• Commercial loans often are a manual review and not well documented |
| **Automated Underwriting System** | • Originally did not comply with software options<br>• Issues are primarily when AUS is run during application, but not used in underwriting.<br>• Multiple AUS systems and multiple runs<br>• Difficult to paint a story with counteroffers when they are verbally accepted. |
| **Total origination charges** | • Revised Disclosures can change the value<br>• Different systems used to prepare docs<br>• Purchase loans - data buried in documents and burdensome to locate. For tradition loans - requires post update for closing disclosures updated after closing. |
| **Interest rate at closing or account opening** | • Staff often doesn't update interest rate from application to closing rate |
| **Debt-to-income ratio** | • Examiner interpretation<br>• Commercial uses Debt Service Ratio<br>• Ratio not always static and could change, making hard to scrub<br>• Loan is approved and cleared to close, then at closing some figures change that affect the DTI.<br>• Especially difficult to collect data on loans that are fast declines due to credit. Definition is unclear if in such case DTI can be reported as NA<br>• DTI changes in between Underwriting decision and closing, requiring additional fields to capture the data. |
| **Combined loan-to-value ratio** | • Software restricting number of decimal spaces<br>• Affected Commercial Loans mostly<br>• Value relied on not available in commercial LOS-lender must manually enter and struggle with including all collateral<br>• Most every government loan needs an override flag manually selected<br>• Manual Calculations required when property value is unavailable or incorrect.<br>• CLTV may change in between Underwriting decision and closing, requiring additional fields to capture the data.<br>• No tolerance for minor differences |

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# DIFFICULTY – OTHER REASONS, cont'd.

| | |
|---|---|
| **Free form race/ethnicity fields** | • Manually entering the data<br>• Many applicants aren't willing to provide the freeform category<br>• Misspellings<br>• Duplicative and/or non-responsive common, time consuming to validate.<br>• Does not provide enough data to be usable in a statistical analysis, especially since it's not received on verbal applications |
| **Business or Commercial Purpose** | • Business loans don't belong on the LAR & should be exempt<br>• For denied or withdrawn applications secured by investment property, back end staff spends lots of time collecting true purpose from loan officers (i.e. investment property to be used by relative or child vs true rental property, etc.).<br>• Conflicts with other regulations<br>• Requires additional information that is not collected on the current 1003 or URLA<br>• Need clarity on distinction of Investment Property under Reg C vs. Reg Z; Outcome can have ripple effect on reportability or other data requirements |
| **Manufactured Home Land Property Interest** | • Confusing to lending team<br>• We do not lend on Manufactured Homes yet are still needlessly required to collect info |
| **Manufactured Home Secured Property Type** | • Additional training of staff on limited number of these type loans<br>• Documents to provide this information aren't obtained in the course of business<br>• We do not lend on manufactured homes yet are needlessly required to collect info |
| **Reverse Mortgage** | • We don't do reverse mortgages<br>• Rules written for forwards, not reverse specs |
| **Open-End Line of Credit** | • HMDA purpose confusion - based on customer's intended use (leads to more Qs) or based on any initial advance (leading to more Qs).<br>• The requirement to report HELOCS caused considerable additional efforts within multiple areas of the bank to comply |
| **Total Units (in Security Property)** | • The HMDA definition of a dwelling unit is not consistently used in Mortgage Terms (ie: Appraisals with guest homes being rented vs being used as transitory). We had to create a discussion checklist for HMDA fields like this for our lenders to complete during the application process.<br>• Difficult to aggregate on multiple pieces of collateral<br>• Borrowers misunderstand this to be number of rooms in a property.<br>• Info frequently not readily available |
| **Multifamily Affordable Units** | • There is no place to verify which units are 'affordable' even HUD said they didn't like this reporting requirement.<br>• No one besides full time HMDA employees understands this field and requires questions to the customer after closing, which is not professional.<br>• This only affects the commercial area and is a manual input by lenders; requirements are onerous and not easily understood by staff<br>• Particularly with withdrawn and denied applications, information may not be available since it is typically not collected by the loan officer. can be validated only through an appraisal or other underwriting confirmation. |

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# Please rate how **useful** the following data fields are to your organization per the current guidance.

| | N | Aggregate Usefulness Rating (10= Not Useful) | Median Usefulness Rating | # of lender rating 7 or above | % of lenders rating 7 or above | Very limited number of records to which this field pertains | Field does not contribute to underwriting or pricing the loan | Field does not enhance our understanding of the borrower's credit profile | Field does not enhance our understanding of how well we are serving our borrowers or communities | Other - (See slides to follow) |
|---|---|---|---|---|---|---|---|---|---|---|
| **Reverse Mortgage** | 121 | 8.40 | 10.00 | 93 | 77% | 53.8% | 14.0% | 19.4% | 23.7% | 41.9% |
| **Manufactured Home Land Property Interest** | 132 | 8.21 | 10.00 | 102 | 77% | 68.6% | 33.3% | 47.1% | 52.0% | 11.8% |
| **Manufactured Home Secured Property Type** | 123 | 8.15 | 10.00 | 90 | 73% | 68.9% | 32.2% | 45.6% | 52.2% | 11.1% |
| **Automated Underwriting System** | 139 | 7.72 | 9.00 | 96 | 69% | 22.9% | 27.1% | 47.9% | 64.6% | 17.7% |
| **Free form race/ethnicity fields** | 137 | 7.60 | 9.00 | 91 | 66% | 64.8% | 51.6% | 54.9% | 56.0% | 24.2% |
| **Multifamily Affordable Units** | 123 | 7.12 | 8.00 | 69 | 56% | 53.6% | 39.1% | 53.6% | 42.0% | 13.0% |
| **Business or Commercial Purpose** | 106 | 7.02 | 8.00 | 62 | 58% | 32.3% | 32.3% | 53.2% | 64.5% | 21.0% |
| **Open-End Line of Credit** | 98 | 6.68 | 6.50 | 49 | 50% | 36.7% | 18.4% | 30.6% | 44.9% | 38.8% |
| **Total discount points** | 130 | 6.51 | 6.00 | 63 | 48% | 31.7% | 31.7% | 54.0% | 65.1% | 19.0% |
| **Total Units (in Security Property)** | 118 | 6.29 | 5.00 | 49 | 42% | 32.7% | 40.8% | 67.3% | 63.3% | 8.2% |
| **Amount of lender credits** | 130 | 6.25 | 5.00 | 56 | 43% | 30.4% | 42.9% | 53.6% | 64.3% | 19.6% |
| **Total origination charges** | 131 | 6.00 | 5.00 | 53 | 40% | 15.1% | 35.8% | 56.6% | 66.0% | 20.8% |
| **Combined loan-to-value ratio** | 111 | 5.60 | 5.00 | 42 | 38% | 14.3% | 19.0% | 33.3% | 61.9% | 26.2% |
| **Interest rate at closing or account opening** | 101 | 5.50 | 5.00 | 33 | 33% | 18.2% | 27.3% | 48.5% | 60.6% | 21.2% |
| **Debt-to-income ratio** | 106 | 5.23 | 5.00 | 32 | 30% | 15.6% | 18.8% | 25.0% | 56.3% | 31.3% |
| **Reasons for denial** | 108 | 5.12 | 5.00 | 38 | 35% | 23.7% | 36.8% | 42.1% | 52.6% | 15.8% |

- The respondents were asked to rate a particular data element's usefulness on a scale of 1-10, with 10 being the least useful.
- They were also asked to indicate the reason for any difficulty rating of "7" or above. The denominator for the percentages listed in the reason is the number of lenders that rated the field "7" or above.
- The darker green shading indicates the reasons with the highest percentages of difficulty ratings of "7" or above.
- As can be seen, many of these fields are believed by the respondents to not contribute to their understanding of the borrower's credit profile or whether the institution is effectively serving their borrower population

# USEFULNESS – OTHER REASONS

The following are reasons cited by respondents for rating a data field low on usefulness:

| | |
|---|---|
| **Reasons for denial** | • Commercial loans = 10, Mortgage loans = 7<br>• Excessive time spend on collecting and aggregating, there has not been a lot of time spent on analyzing the data yet.<br>• Field does provide understanding of various reasons for denial for consumer and residential applications; it is useful for fair lending purposes |
| **Automated Underwriting System** | • Don't use Automated Underwriting System<br>• When not used in underwriting, result reported does not always align with up-to-date information. |
| **Total origination charges** | • Don't report total origination charges<br>• HMDA Processor do not understand these fields<br>• APR would be more useful than just components of APR |
| **Total discount points** | • Exempt<br>• HMDA Processor do not understand these fields |
| **Amount of lender credits** | • Voluntary and involuntary (tolerance) credits commingled<br>• This field is not reliable for fair lending analysis as it can be a tolerance cure; rather than a credit provided to the borrower at the lender's discretion.<br>• Totals include cures & pricing credits |
| **Interest rate at closing or account opening** | • It is useful for fair lending purposes |
| **Debt-to-income ratio** | • Difference in rounding between FHLMC and FNMA. It is an issue because the new rule requires reporting of secondary market calculation if there was one. Have to rely on looking at a piece of paper to determine rounding. |
| **Combined loan-to-value ratio** | • Never calculated a final CLTV. We only have a max LTV. |
| **Free form race/ethnicity fields** | • Not often used by applicants<br>• Borrowers won't use it<br>• For 2 of the 9 entries that contained a free form entry, the borrower indicated 'American'.<br>• Difficult to use information, due to errors in free form fields<br>• Instruction from CFPB to collect all responses have led to these fields being used for anything the borrower says outside the normal categories (even where response is clearly unrelated to GMI) |

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# USEFULNESS – OTHER REASONS, cont'd.

| | |
|---|---|
| **Business or Commercial Purpose** | • We know already what loans are commercial or business<br>• Conflicts with other regulations<br>• Reg Z definition does not necessarily line up with bank's definition, which skews data when analyzing using this field.<br>• Regulation needs clarification since we could do an investment property in the residential dept and need to ensure then that all other HMDA fields are property filled out if not subject to Reg Z; commercial loans need to be removed as HMDA reportable since they are a very small percentage of total HMDA applications<br>• Uses Reg Z definition but not borrower intent |
| **Manufactured Home Land Property Interest** | • Bank does not make these loans<br>• This is difficult to determine at the onset of the application when HMDA information is entered in the system and a manual process is in place to double-check at the time the loan closes to ensure accuracy from documentation subsequently uploaded |
| **Manufactured Home Secured Property Type** | • Bank does not make these loans<br>• Responses don't vary greatly |
| **Reverse Mortgage** | • We don't do reverse mortgages |
| **Open-End Line of Credit** | • Exempt from Open-End reporting<br>• We don't have to report Open End lines of credit |
| **Total Units (in Security Property)** | • Definition does not adequately represent the reported property<br>• The information is too granular to be useful. Burden outweighs benefit.<br>• Change from Property Type to multiple fields including Total Units has caused considerable staff confusion. |
| **Multifamily Affordable Units** | • Does not apply<br>• Difficult for lenders to understand how to properly enter this HMDA data and more guidance is needed or field removed manual data entry. |

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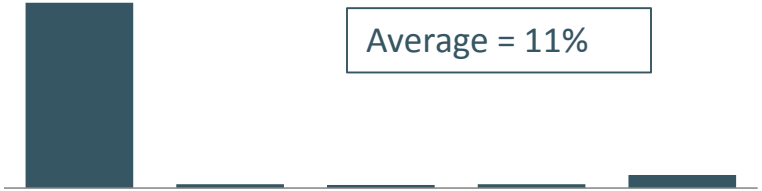
# What percentage of HMDA data records included an entry in the GMI free form?
# What percentage of HMDA data records included an entry in the free form fields regarding credit score model and denial reasons? (%)
# How do you populate the free form fields?

## % HMDA Records w/ GMI Free Form Field

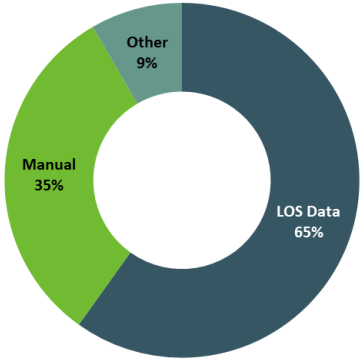



| | 0% - 20% | 21% - 40% | 41% - 60% | 61% - 80% | 81% - 100% |
|---|---|---|---|---|---|
| % of Lenders | 89% | 2% | 1% | 2% | 6% |
| # of Lenders | 142 | 3 | 2 | 3 | 10 |

## % HMDA Records w/ Credit Score and Denial Free Form Field


| | 0% - 20% | 21% - 40% | 41% - 60% | 61% - 80% | 81% - 100% |
|---|---|---|---|---|---|
| % of Lenders | 80% | 5% | 5% | 3% | 5% |
| # of Lenders | 119 | 8 | 8 | 5 | 8 |

## How Free Form Fields are Populated




Most Free Form Fields are populated using LOS data, although these fields are used in a very low percentage of records.

**APPENDIX B**
**Questions and Recommendations**

**Definitions**

1. ***Question Re: 12 C.F.R. § 1003.2(e) – Covered Loan***

We are making a loan and structuring it as a non-revolving line of credit in which the customer can draw down the line for one year and then it will term out over 15 years based on the amount the customer drew on the loan. The loan proceeds will be used to purchase rental properties; however, at closing, we will not be disbursing any funds. The loan will be HMDA reportable once the customer draws down the loan and we file a mortgage on the property. How do we report this loan for HMDA if we do not have any dwelling at time of closing but will have dwellings later on?

2. ***Question Re: 12 C.F.R. § 1003.2(f) and official interpretation 2(f)-4 – Dwelling***

More clarification is needed to understand the term "primary use" as used in the definition of a "dwelling" for a property that is mixed-use. For example, assume there is a transaction where the subject property contains 70 mobile home pads, 150 RV pads, and 18 apartments. Would such a mixed property be a HMDA-reportable loan for multifamily community? The official interpretation suggests a property that is used for both residential and commercial purposes (such as a building that has apartment and retail units) would count as a "dwelling" if the property's primary use is residential. Official interpretation of 2(f)-4. The confusion in the example above is whether the transaction could be exempt from HMDA due to the amount of rent received from the RV pads, which could be more than the rent received from the mobile homes and apartments. Does the "primary use" rule set forth in the "dwelling" definition apply only to the determination of whether one building is primarily residential (such as when there is a building with a store and a residential apartment in it), or can there be an affirmative determination on primary use where, as set forth in this example, there is land that has two one-family units and 4 commercial buildings on it?

3. ***Question Re: 12 C.F.R. § 1003.2(f) and comment (2)(f)-4 – Dwelling – Mixed-Use Properties***

The HMDA rules address mixed-use properties and how to determine if the property is a commercial property or residential property, but they do not address multiple properties with different uses. Assume a commercial loan will be secured by 6 dwellings and 40 lots. The purpose of the commercial loan is to purchase those 6 dwellings and 40 lots. Would this loan be HMDA reportable?

Can we use our own determination for this loan, where there are multiple properties with different uses, similar to a scenario with mixed-use properties? In the example above, the majority of the collateral are lots. Could I rely on that majority to say this commercial loan is not HMDA reportable? Alternatively, if instead of lots, they were 40 commercial properties, could I use the same logic and say this loan is not HMDA reportable because the majority of the collateral is commercial? Or, does this rationale only apply to mixed-use properties?

**Covered Loans**

4. ***Recommendation Re: 12 C.F.R. §§ 1003.2(g), 3(c)(11) & (12) – Assumptions and Successors in Interest***

Transactions involving assumptions and successors in interest (SII) are generally processed by servicers. Such entities are not otherwise HMDA reporters, but must report when the need arises to process these particularized transactions. *See* 12 C.F.R. § 1003.2(g), 1003.3(c)(11) & (12). It is a substantial compliance burden on servicers who do not otherwise originate loans to be required to report on these exceptional cases. We recommend that assumptions and SII transactions be excluded from the threshold number of transactions that must be originated in each of the two preceding years for HMDA reporting to be required.

5. ***Recommendation Re: 12 C.F.R. § 1003.4(a) and Official Interpretation 4(a)-2 – Assumptions***

Regulation C currently provides no explicit guidance on whether a holder, servicer, or sub-servicer should report assumptions. *See* Official interpretation of 4(a)-2. Where a transaction involves more than one institution, we recommend that the rules should provide certainty that if more than one entity is involved in processing the assumption request, the entity that should report the transaction is the entity that would notify the new borrower of the decision to approve or not approve the assumption. This approach provides a clear and consistent rule for such reporting requirements.

6. ***Question Re: 12 C.F.R. § 1003.2(g) and comment 2(g) – Impact of Merger/Acquisition***

We are in negotiations to purchase a financial institution that is a HMDA reporter but does not report HELOCs. We are a HMDA reporter and are required to report HELOCs.

I understand that since we are both subject to HMDA, data collection is required for the entire year of the merger, and we as the surviving entity, may file either a consolidated submission or separate submissions for that year of the merger.

However, my question is how does this affect the HELOC data? We had planned to report the two LARs separately, however, how do we handle the HELOC's for the institution we are acquiring? If they become legally ours as of October 1, do we have to start reporting the acquired institution's HELOCs at that time? Additionally, as of October 1 do all of the loans for the acquired institution, not just the HELOCs, come to our LAR? If so, will the acquired institution only report their LAR from Jan 1 through October 1 of 2018?

7. ***Exemption for Certain Commercial Purpose Loans/Lines - § 1003.3(c)(10)***

When the CFPB released its final rule in 2015, the prefatory comments to § 1003.3(c)(10) adopted the treatment of trusts in Regulation Z's Comment 3(a)-10, which treats loans involving trusts as commercial purpose, unless they are (a) for tax or estate planning purposes, or (b) land trusts.

It is not uncommon for business borrowers to hold business assets in trust. When such an applicant makes a request that clearly appears to be for commercial purposes, it is not clear whether the lender must undertake this same analysis to determine whether a loan is "truly"

commercial purpose, or whether it should instead be treated as consumer purpose. We urge that the Bureau clarify elements concerning the treatment of trusts in these regulations.

From a HMDA perspective, the issue impacts not only the reporting of Occupancy under § 1003.4(a)(6), but other fields as well, including, but not limited to whether the loan is reported as Business/Commercial Purpose under § 1003.4(a)(38). Indeed, this issue will affect whether the loan or application is even reportable, since business purpose loans are reportable only if they are for Home Purchase, Home Improvement or Refinancing under § 1003.4(a)(3).

***8. Recommendation Re: 12 C.F.R. § 1003.4(a) and Official Interpretation 4(a)-5 – Repurchased Loan***

Lenders should only report the expanded data points on repurchased loans that were originated on or after January 1, 2018.

***9. Recommendation Re: 12 C.F.R. § 1003.4(a) and Official Interpretations 4(a)-2 through -4 – HFA Bond Program Loans***

Regulation C must be tweaked to correct an oddity regarding the reporting of originations of HFA bond program loans. In such program, because Housing Finance Agencies will purchase a loan if originated, the current commentaries concerning pre-closing reviews may prevent the lender from reporting the origination. *See* Official Interpretation 4(a)-2-4. For financial institutions with Community Reinvestment Act (CRA) obligations, the inability to report these originations makes it more difficult to obtain CRA credit, because only transactions that are reported under HMDA are included in the home mortgage loan category. The current rules therefore may be discouraging lenders from participating in these programs and may be causing harm to low to moderate income (LMI) households and geographies. We recommend a clarification that if a participating lender in a Housing Finance Agency's bond program makes a decision to approve an application, but the Housing Finance Agency requires that it review the application before closing, the lender should be permitted to report the transaction.

**<u>Loan Purpose and Characteristics</u>**

***10. Recommendation Re: 12 C.F.R. §§ 1003.3(c)(10), (4)(a)(3) & (35) – Business or Commercial Purpose***

Many creditors who make loans secured by 1-4 family properties treat them as consumer loans and provide Regulation Z disclosures. This is because there would be considerable risk in failing to provide Regulation Z disclosures if in fact the transaction was primarily for consumer credit. Section 1026.3(c) of Regulation Z and its related commentary, which distinguish between consumer credit and credit for business purposes, do not clearly address many situations that are common in mortgage lending. Aside from the purchase of 3-4 family rental property (which is clearly primarily for a business or commercial purpose) in nearly all other situations it is very difficult to determine whether a loan is primarily for a business or commercial purpose from the information collected on the Uniform Residential Mortgage Application. Aside from HMDA, creditors may have no reason to try to apply the Regulation Z guidelines to determine if loans are primarily for a business or commercial purpose. The Business/Commercial field is not particularly useful for loans on 1-4 family properties. Creditors in their consumer departments generally follow Fannie/Freddie guidelines on whether the property is a primary residence,

second home, or investment property and the Occupancy field will explain differences in underwriting and pricing.

We suggest that institutions should be permitted to assume for transactions secured by 1-4 family properties that the loan is not primarily for a business or commercial purpose, other than a loan to purchase a 3-4 family property that is secured by that property. We further suggest that regulation be clarified by stating that institutions may rely upon the applicant's statement of whether or not the loan or line is primarily for a business or commercial purpose for the reporting of that field and determining whether a loan for an "Other" purpose (not purchase, refinancing, or home improvement). Finally we suggest revising validity edits V672-V676 to permit institutions that have provided a Closing Disclosure to report Total Loan Costs, Origination Charges, Discount Points, and Lender Credits when the transaction is reported as primarily for a business or commercial purpose.

***11. Question Re: 12 C.F.R. § 1003.4(a)(1)(ii) – Application Date***

A customer applied for a mortgage without identifying a property. Our institution does not have a formal preapproval program. The customer chose a property at a later date and the application received "an approve/eligible" decision contingent on verification of income, assets, and appraisal. What application date should be reported on the LAR? Should it be the date the customer initially applied or the date the property was chosen and received an "approve/eligible" decision? Also, the customer withdrew the application due to the seller not extending the sales contract. Should the application be reported as withdrawn since required underwriting conditions were not met?

***12. Question Re: 12 C.F.R. § 1003.4(a)(3) – Loan Purpose***

Borrower is "buying out" her husband's interest in a 1-4 family dwelling that was "free and clear." Property was already in joint ownership names prior to this loan and once loan originates it will be in the wife's name individually following a divorce settlement. Would we report this transaction as a "Purchase" or as "Other" for HMDA?

***13. Question Re: 12 C.F.R. § 1003.4(a)(3) – Loan Purpose***

Comment 4(a)(3)-1 permits the institution to rely on the applicant's statement regarding the use of the loan funds. In some cases, however, the applicant may provide unclear or non-committal responses (e.g., "I may use the money for X, but I'm not sure yet"). It is not clear how to handle this situation, and in some cases (e.g., purchased loans, denied loans), it may be difficult to obtain further clarification. Should the institution report only clear, committal responses? Or should the institution report any reason provided, even if non-committal?

***14. Recommendation Re: 12 C.F.R. § 1003.4(a)(13) – HOEPA Status***

The Bureau should eliminate reporting requirements pertaining to HOEPA Status. *See* 12 C.F.R. § 1003.4(a)(13). In light the panoply of pricing data now imposed under new HMDA requirements, this data element has been rendered pointless. Hardly any loans made in today's market are HOEPA loans. It is not clear what benefit is gained by knowing whether a loan that is not a HOEPA loan is or is not within the scope of HOEPA. It is however a significant compliance burden because now the determination has to be made on every loan.

### *15. Question Re: 12 CFR* § 1003.4(a)(13) – High Cost Loans Under HOEPA

Our institution has a longstanding policy against originating or purchasing HOEPA High Cost loans. As a result, most – if not all – our LAR entries will be reported as non-High Cost. In some cases, however, we may identify that an error was made in the initial calculations, resulting in an inadvertent High Cost origination (or a required repurchase of an inadvertent High Cost loan). It is unclear whether this should be considered an error, given that we maintain good faith procedures to avoid making or purchasing such loans.

### *16. Question Re: 12 CFR* § 1003.4(a)(13) – High Cost Loans Under HOEPA

In a purchase or repurchase situation, it is unclear whether we can rely on the high cost calculation that was performed at the original loan origination.

### *17. Question Re: 12 C.F.R. § 1003.4(a)(25) – Loan Term*

Under 12 C.F.R. § 1003.4(a)(25), addressing loan term reporting for HMDA purposes, the provisions suggest that the only time "NA" can be used is when the covered loan or application contains no definite term, such as a reverse mortgage. Other interpretations, by software and other non-bank providers, indicate that "NA" can be used for the loan term for both a denied and withdrawn application. This interpretive confusion is important and requires an explicit answer from the Bureau.

### *18. Question Re: 12 C.F.R. § 1003.4(a)(26) – Introductory Rate Period*

There are questions on Introductory Rate Period scenarios under 12 C.F.R. § 1003.4(a)(26). It is unclear what is reported when financial institutions offer HELOC products that do not have any introductory rates and contain variable rates tied to the Prime Rate. The first change date is unknown because the institution cannot know when the Prime Rate will change. We understand that reporting "N/A" is not an option. Some financial institutions will report "1" because the official interpretations state that financial institutions must report "1" if the introductory interest rate period could have been less than one whole month under the proposed terms. Official interpretation of 4(a)(26)-5. However, this language does not address what happens if there is no introductory rate period. Is it acceptable to report "0" as there is no introductory rate period?

## Financial Institution's Action

### *19. Question Re: 12 C.F.R. § 1003.4(a)(8)(i) and official interpretation 4(a)(8)(i)-13 – Action Taken – Conditional Approvals*

More guidance is needed concerning "Time of Credit Decision" and approvals conditioned upon requalifying. *See* Official interpretation of 4(a)(8)(i)-13. We note that when "conditions" involve underwriting or creditworthiness, then the approval is not a credit decision approving the loan. On the other hand, if the "condition" is a customary commitment or closing condition, then the approval may be a credit decision approving the loan. Such conditions are common and often not cleared until just before the closing date. These requirements intersect other regulations, as financial institutions may risk violating the ATR/QM rule if the condition is not included because the applicant must be able to afford the loan at the interest rate and/or fully-indexed rate. Data integrity would be improved if there were clear guidance on this issue. We

urge that the Bureau clarify instances of conditions where approval may be revoked if the fully indexed rate and/or initial rate increases and applicant no longer qualifies. Is this an underwriting or creditworthiness condition, or is it a customary commitment or closing condition?

***20. Question Re: 12 C.F.R. § 1003.4(a)(8)(i)(B) – Application Denied***

Assume situation of a mortgage application that received conditional approval subject to the customer improving their credit score. Before we could review the applicant's credit score again, the applicant relocated and decided not to proceed with the loan. Would this be considered a denial, as the applicant did not meet the underwriting conditions or approved but not accepted because the applicant decided not to proceed with the request? This application was included in our HMDA reporting as a denied application based on commentary from the HMDA FAQs, as the customer did not satisfy the underwriting conditions. However, upon further review, we do not think this should be a denial as the applicant withdrew the request before the bank was able to make a credit decision.

***21. Recommendation Re: 12 C.F.R. §§ 1003.4(a)(4) & (8) – Preapproval and Action Taken***

As set forth in the compliance questions above, there is ongoing confusion regarding preapprovals and the fields "Preapproval" and "Action Taken." *See* 12 C.F.R. §§ 1003.4(a)(4),(8). In instances where loan applications begin with a preapproval request and result in an origination, the institution would report in the Preapproval field "1-Preapproval Requested," and in the Action Taken field, would report "1- Originated." But if the application began with a preapproval request and the preapproval request was approved but the loan was subsequently denied (because, for example, the property was unacceptable), V613 of the Filing Instructions Guide prevents that transaction from being reported accurately. The denied transaction "involved a request for a preapproval" to the same extent as the originated transaction so one would expect that the Preapproval field would also be reported as "1-Preapproval Requested." But V613 prevents reporting the Action Taken as "3-Denied." Reporting the Action Taken as "7-Preapproval Request Denied" would not be appropriate because the preapproval request was not denied.

In addition, once a property is submitted, whether before or after a decision on the preapproval request, the application is deemed to have moved beyond the preapproval stage. For most purposes, it is treated no differently than an application that was originally submitted with a property. A final credit decision cannot be made until the property is underwritten. There seems to be no logical reason why such applications with a submitted property should not be reported if they are withdrawn or closed for incompleteness.

V613 currently forces financial institutions to either suppress the reporting of applications that involve a preapproval request that are withdrawn or closed for incompleteness after the property is selected or to report the action taken on all applications and inaccurately report that the application did not involve a preapproval request.

We recommend revisions to V613 to clarify that—(i) If an application begins with a preapproval request the institution may always report 1-Preapproval Requested, and (ii) If the application

begins with a preapproval request and a property is subsequently submitted, the transaction may be reported regardless of the final action taken, using action taken codes 1-5.

***22. Recommendation Re: 12 C.F.R. § 1003.4(a)(8)(ii) – Action Taken Date***

With regard to the field concerning "Action Taken Date," the rules generally allow financial institutions the option of using the funding or acquisition date as the action taken date. We believe the current requirement to report the year of closing is an unnecessary complication that does not appear to provide any real benefit, because the difference between closing and funding is usually only a few days. We recommend that financial institutions should have the option of reporting the origination in year that it is funded or acquired.

***23. Recommendation Re: 12 C.F.R. § 1003.4(a)(8)(ii) – Action Taken Date***

It is unclear what to report when final action occurs after a rate change has already occurred. Our approach thus far has been as follows:

- If further rate changes are possible, report the number of months between the final action in question, and the date of the next possible change.
- If all possible rate change events have already occurred, treat the loan as having a fixed rate, and report "N/A" as a result.

It would be helpful is the Bureau clarified this area.

**<u>Applicant/Borrower and Property Characteristics</u>**

***24. Recommendation Re: 12 C.F.R. § 1003.4(a)(6) – Second Residence and Investment Property***

There is ongoing vagueness in rules pertaining to second residences, investment properties, and occupancy types. *See* 12 C.F.R. § 1003.4(a)(6). Under Fannie underwriting guidelines, a "second home" must be a single-family property. If the applicant or borrower intends to occupy a property with more than one unit for a portion of the year, the loan will be underwritten and priced as "investment" property. We offer that allowing financial institutions to report the occupancy as investment would lessen the compliance burden and make the occupancy field more useful because it would more often correspond to how loans are actually underwritten and priced. We would urge clarifications to Regulation C that when the property has more than one unit and is not the applicant or borrower's principal residence, the institution may report the occupancy as "Investment" even if the applicant or borrower may occupy it for a portion of the year.

***25. Question Re: 12 C.F.R. § 1003.4(a)(7) – Loan Amount***

Regulation C states that for applications that are denied, closed for incompleteness, or withdrawn, the loan amount reported is the "amount initially requested." I have 3 questions/statements:

a) If a change of circumstance is completed to change the loan amount, LTV, or program (for example) and the loan is denied with that change, wouldn't you report the information for which the loan was denied and not the initial request?

b) Same scenario but the loan is withdrawn or closed incomplete – would you report the initial loan amount?

c) The document titled "DTI: The "Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart – Version 1.2" and published on February 1, 2018 states that financial institutions should report the DTI up to 2 decimal places but should only use decimal places if the ratio relied upon uses decimal places. We utilize a system for underwriting some of our loans that rounds DTI to a whole number. If the AUS result is our source document for the DTI, should we report the rounded DTI on the system feedback certificate or use the unrounded number that the underwriter used in calculating the ratio?

***26. Question Re: 12 C.F.R. § 1003.4(a)(7) – Loan Amount***

I have a question about HMDA loan amount, and what loan amount needs to be reported when the action taken is withdrawn, file closed for incompleteness and denied. In addition, I would like some clarification on how a change of circumstance (borrower requests to change loan amount) changes the amount the borrower originally applied for and if the borrower's requested change should be reported instead of what was originally applied for.

This is my understanding of the regulation: 1. General rule: the financial institution reports the amount of the covered loan (on the legal obligation) or the amount applied for, as applicable. 2. For an application approved but not accepted, the financial institution reports the covered loan amount that was approved. 3. For files closed for incompleteness, withdraws, the financial institution reports the amount for which the applicant applied. 4. For denials, the financial institution reports the amount for which the applicant was denied. Can the Bureau confirm this interpretation?

Additionally, clarification is needed for the following scenarios:

*Scenario #1:*

Applicant applies for $105,000.00, then requests to increase the loan amount to $120,000.00. We do not have a documented change of circumstance form in the file that client requested we increase their loan amount to $120,000.00, however, under our institution's procedures, the loan amount can only be changed due to a client request. The client then withdraws the application or the file is closed for incompleteness. Would we report the higher loan amount the client requested for $120,000.00 or would we report the $105,000.00 the client originally applied for?

*Scenario #2:*

Applicant applies for $105,000.00, then requests to decrease the loan amount to $90,000.00. We do not have a documented change of circumstance in the file that client requested we decrease their loan amount to $90,000.00, however, under our institution's procedures, the loan amount can only be changed due to a client request. This client then withdraws the application or the file is closed for incompleteness. Would we report the $105,000.00 the client originally applied for or would we report the $90,000.00 the client requested?

From an examiner prospective, is it sufficient for our procedures to state that loan amounts are only increased or decreased per borrower request, or must the applicant's request for a loan amount change be documented using a change of circumstance form? Or would it be appropriate to print two applications in the file, one for the client's original application and a final application at fallout (withdrawn, closed for incompleteness) that reflects the new loan amount the client requested?

***27. Question Re: 12 C.F.R. §§ 1003.4(a)(10)(iii) and (a)(23) – Income and DTI***

On some dwelling secured loans, both personal purpose and business purpose, lenders may utilize both Net Cash Flow for income purposes as well as Debt Service Coverage Ratio instead of a DTI for evaluating borrowers. For purposes of reporting income, it appears that some lenders may report "NA" if the loan is business purpose or multifamily. However, if the loan is personal purpose, and the lender calculates a total income figure that is not gross annual income as set forth in the rule, would it be acceptable to report "NA" in such circumstance? If a lender's underwriting evaluation relies on Debt Service Coverage Ratio, would it be appropriate to report "NA" since there is no reliance on DTI to make the credit decision?

***28. Question Re: 12 C.F.R. §§ 1003.4(a)(10)(iii) and (a)(23) – Income and DTI***

We have a loan where the gross annual income and DTI used in making the credit decision is a negative figure. Our software provider will not allow us to enter a negative figure. I contacted them and they plan to issue an update to correct the income field to provide the capability of entering a negative number. However, for the DTI field, we are only permitted to enter "0" or a number (not negative). In this situation, should lenders report the negative DTI or "0"?

In the preamble to the 2017 final HMDA amendments, the Bureau seems to say that a negative gross income can be listed on the LAR. It says, "Finally, the Bureau notes that the 2015 HMDA Final Rule and the 2018 FIG do not include any language that would bar a financial institution from reporting an applicant's gross annual income as "0" or even a negative number when that is the accurate figure that it relied on."

***29. Question Re: 12 C.F.R. § 1003.4(a)(23) – Income and DTI***

What are we supposed to report for DTI if our lender used the guarantor's income in underwriting the loan? Borrower is starting a new law firm and has no income for his new start-up so the lender used the guarantor's income for the loan. We report "N/A" for income but what about DTI?

***30. Question Re: 12 C.F.R. § 1003.4(a)(23) – Income and DTI***

There appears to be a potential inconsistency on how "income" and "debt-to-income" are reported for non-natural persons. For Income, Comment 4(a)(10)(ii)(4) instructs institutions to report "N/A" if the applicant "OR" co-applicant is a non-natural person. For DTI, Comment 4(a)(23)-5 instructs institutions to report "N/A" only if the applicant "AND" co-applicant are non-natural persons. Can the Bureau instruct on handling the inconsistency.

***31. Question Re: 12 C.F.R. § 1003.4(a)(23) – Income and DTI***

The regulation makes repeated reference to "gross income." Two questions arise—

- Many lenders rely on net income figures, rather than gross income, to underwrite their loans. It is not clear whether the regulation permits reporting of this "net income" figure (which is what was actually "relied upon"), or whether net income must always be "grossed up" for HMDA reporting purposes.
- To the extent that the regulation permits the reporting of net, rather than gross, income, it is also not clear how institutions should handle income amounts which – after deductions of expenses – are negative numbers.

### *32. Question Re: 12 C.F.R. § 1003.4(a)(23) and official interpretation 1003.4(a)(8)(i)-5 – DTI for Approved but Withdrawn Application*

We are inquiring on how to complete the DTI field when an applicant withdraws after we approved the credit application, but before all underwriting or closing conditions have been met. For example: An applicant loan request has been approved but the applicant has not provided evidence to support the listed current income. Before any notice of incompleteness is issued, the consumer withdraws his application.

Per the official interpretation of 1003.4(a)(8)(i)-5, the financial institution is to report this situation as withdrawn. ("A financial institution also reports application withdrawn if the financial institution provides a conditional approval specifying underwriting or creditworthiness conditions, pursuant to the official interpretation of 4(a)(8)(i)-13, and the application is expressly withdrawn by the applicant before the applicant satisfies all specified underwriting or creditworthiness conditions.)

For withdrawn applications, there is a conflict in how to report the DTI. One suggests the DTI is to be provided if known and relied upon; the other states it should be reported as "NA" even if known or calculated. The HMDA Reporting, Getting it Right, page 26, (Link to the Guide: https://www.ffiec.gov/hmda/guide.htm) suggests that the DTI should be reported if a consumer withdraws after a credit decision has been made but before all underwriting or closing conditions have been met.

On the other hand, the Filing Instructions Guide from February 2018 (page 125) states that there will be a validity error if we report a DTI on a loan that we code as withdrawn and that the Debt-to-Income Ratio must be reported as "N/A."

Can you confirm which of the two statements is governing our recurring situation?

### *33. Question Re: 12 C.F.R. §§ 1003.4(a)(23)-(24) – DTI and CLTV*

12 C.F.R. §§ 1003.4(a)(23)-(24) does not provide guidance as to how many decimal places should be used for the HMDA DTI Ratio and the CLTV Ratio. The FIG Guide also doesn't provide specifics, but it does give an example that if the DTI ratio that is relied on is 42.95, then report 42.95 and not 43. We don't know if this example means that we should then only use two (2) decimal places on the LAR. Can we use only two decimal places on the LAR for the DTI and CLTV Ratios, even though internal documentation uses three (3) decimal places for underwriting, or do we need to use three (3) decimal places for these ratios?

The 2019 FIG states for DTI "Use decimal places only if the ratio relied upon uses decimal places. The HMDA Platform can accept up to 15 decimal places and can accept negative numbers for Debt-to-Income Ratio." It appears you can use as many decimal places up to 15.

In addition, for CLTV "Use decimal places only if the ratio relied upon uses decimal places. The HMDA Platform can accept up to 15 decimal places for the Combined Loan-to-Value Ratio." It appears you can use as many decimal places up to 15.

***34. Question Re: 12 C.F.R. § 1003.4(a)(15) – Credit Score***

More clarification is needed for the credit score provisions under 12 C.F.R. § 1003.4(a)(15). The official interpretation states that lenders should report the name and version of the credit-scoring model for the score reported. Official interpretation of 4(a)(15)-2. This is not clear when applied to industry practice, however, as credit scores come in "versions" or "series" that do not well align with reporting instructions. In light of the varying sub-versions of credit scores, the Bureau should clarify that reporting the principal version of any credit score is sufficient, and that sub-versions do not need to be identified. Some examiners have opined that correct reporting requires the name of the sub-version in the free form text field for HMDA. This approach will lead to needless errors and misclassifications.

***35. Question Re: 12 C.F.R. § 1003.4(a)(15) – Credit Score***

Can code 8888 ("not applicable" or "NA") be used for credit score reporting in an "employee loan"? Since the income can be reported as "NA" on such loans, it would follow that the same can be done for credit score as well.

***36. Question Re: 12 C.F.R. § 1003.4(a)(15) – Credit Score***

The current rule and commentary does not address the reporting of credit scores when the application involves a mixture of natural, and non-natural, applicants. For example, Comment 4(a)(15)-3 notes that if there are two or more applicants, and the institution relies on only one score, the institution reports that score as bellowing to the applicant or first co-applicant, at the institution's discretion. However, if both the applicant and first co-applicant are non-natural persons, Comment 4(a)(15)-7 instructs the institution to report "N/A". Suppose, however, that the applicant and first co-applicant are non-natural persons, but the institution relies upon a credit score for the second co-applicant, who is a natural person. It is unclear whether the institution should report the credit score at all, and if so, whether it should be reported for the non-natural applicant, or for the non-natural first co-applicant.

***37. Question Re: 12 C.F.R. § 1003.4(a)(15) – Credit Score***

It is unclear whether the institution should report a score that was relied upon, but which does not belong to an applicant. For example, in a commercial loan made solely to a corporation, but subject to a guarantee by the corporation's principal officer, the institution might obtain and rely on the officer's credit score, even though the officer has no direct liability. The issue is somewhat complicated by inconsistent terminology between the Home Mortgage Disclosure Act itself, and its underlying regulation, Regulation C: while the Act requires collection of credit scores of "applicants" and "mortgagors", it defines neither of those terms. Arguably, a guarantor could be considered an "applicant" or "mortgagor". The text of Regulation C, however, uses

neither term, instead stating that lenders must report "the credit score or scores relied on in making the credit decision", arguably suggesting that any score that factored into the lender's decision must be reported.

### *38. Question Re: 12 C.F.R. §§ 1003.4(a)(24) and (a)(28) - CLTV*

Questions arise regarding proper reporting of property value and CLTV for commercial HMDA applications. Under the rules, a financial institution reports the property value and the CLTV it relied on in making its credit decision. *See* 12 C.F.R. §§ 1003.4(a)(24) and 1003.4(a)(28).

However, in many commercial loan cases, the financial institution does not receive an appraisal when it makes the credit decision, so the property value and CLTV may be unknown. In such instances, they make a "conditional" approval that might, for example, state "An appraisal will be ordered with LTV not to exceed 75% of cost or appraised value, whichever is less. The purchase price is $199,900 for a loan to cost of 75%. Loan amount is $149,925.00." In instances where the institution does not receive the appraisal until "after" the conditional credit decision is made, what property value and CLTV should be reported for LAR purposes? In this case, do we report $199,900 as the property value and 75.000% as the CLTV no matter what the "final" property value or CLTV might be post-appraisal? This appears to be the correct outcome under the following advice, set forth in the Official interpretation of 4(a)(28)-1—"If the financial institution relied on the purchase price of a property when calculating the loan-to-value ratio, it reports the purchase price as the property value."

### *39. Recommendation Re: 12 C.F.R. §§ 1003.4(a)(10)(iii), (15), (21), (23), (24), & (28) – Fields determined at the time of credit decision*

Lenders are experiencing ongoing difficulties with rules concerning fields determined at the time of credit decision. The determination of the time that a credit decision is made affects many of the reported fields including the fields listed below.

- Income
- Credit Score
- Interest Rate (if approved not accepted)
- DTI Ratio
- CLTV Ratio
- Property Value

We note that during a loan's processing phase, there are often minor changes in these values that have no impact on how the loan is underwritten or priced. In addition, determining the time of a credit decision approving the application is especially difficult. When a conditional approval is issued, it will not be considered a credit decision unless and until it is not subject to any underwriting or creditworthiness conditions. It is not always easy to track the point in time when the last underwriting or creditworthiness condition has been satisfied and a credit decision approving the loan has been made. We recommend that the Bureau provide tolerances for fields that are determined as of the time of a credit decision.

### *40. Recommendation Re: 12 C.F.R. §§ 1003.4(a)(10)(iii), (15), (21), (23), (24), & (28) – Fields determined at the time of credit decision*

In some cases, a piece of information may be present in loan data or files, but not actually "relied upon". For example, an underwriter may have obtained, but never actually considered, a property valuation. These fields include:

- Gross Annual Income (§ 1003.4(a)(10)(iii))
- Credit Score (§ 1003.4(a)(15))
- Debt-to-Income Ratio (§ 1003.4(a)(23))
- Combined Loan-to-Value Ratio (§ 1003.4(a)(24))
- Property Value (§ 1003.4(a)(28))

Our approach thus far has been to err on the side of reporting, excluding the data only where it seems clear that the information was not used. It would be helpful, however, to have more clarity (e.g., allowing institutions to report "NA" absent clear evidence – based on credit policy or decline reasons, for example – that the information was, in fact, relied upon).

### *41. Recommendation Re: 12 C.F.R. §§ 1003.4(a)(27) – Balloon Payments, Interest Only Payments, Negative Amortization or "Other Non-Fully Amortizing Features"*

For purchased loans, it is unclear whether the institution should report these features as they existed at the time of loan origination, or, if the loan has been modified, as they exist at the time of purchase.

## Government Monitoring Information

### *42. Question Re: GMI and Sample Data Collection Form*

Clarity is needed in the Sample Data Collection Form section regarding the Government Monitoring Information "To Be Completed by Financial Institution (for an application taken in person)." It appears that the only circumstance where the "yes" box is checked is if the applicant/borrower checked the box "I do not wish to provide this information." Stated differently, would lenders check the "no" box if application is taken in person and the applicant selects an ethnicity, race and sex?

### *43. Question Re: GMI and Sample Data Collection Form*

The 2015 HMDA Rule added new subcategories and free form "other" boxes for race and ethnicity. The implementation of these categories has been challenging for bankers and frustrating for applicants, particularly in applications taken by phone. On average, these new requirements have added 2-3 minutes to the GMI collection process for every phone-based application:

- Informal guidance received from the Bureau's HMDA Help line has been that in a phone application, the institution must always present every category and subcategory, regardless of the applicant's previous responses. Thus, bankers must recite every option in every call, even where the applicant states at the outset that he/she "doesn't want to provide any of that information", or reports at the outset that he/she is "100% Hispanic, nothing else". This is frustrating for both bankers and customers.

- Similarly, the current instructions to repeat the "I do not wish to provide this information" option for each category is needlessly duplicative, since the introductory disclosure makes clear that providing the information is optional.
- Bureau guidance has also been that institutions must record all responses provided, even if the responses seem illogical. In an attempt to comply, bankers are frequently using one or more of the new free form boxes to capture even nonsense, offensive or other remarks, despite clearly having no bearing on race or ethnicity (e.g., "blonde haired, blue eyes", "Martian")
- "Native Hawaiian or Pacific Islander" have led to particular confusion, since they must be presented as both a subcategory, and as a component of an aggregate category ("Native Hawaiian or Other Pacific Islander")
- In the prefatory materials to the 2015, it included Footnote 285, detailing the Census Bureau's definitions for race and ethnicity terminology (e.g., the Census instructions note that "White" includes "people who … reported entries such as Irish, German, Italian, Lebanese, Arab, Moroccan, or Caucasian.") This has led to confusion over whether these same definitions are meant to apply to Regulation C's race/ethnicity designations.

It would be helpful to have more clarity on the proper handling of these points.

***44. Question Re: GMI and Sample Data Collection Form***

In some cases, GMI data is collected by third parties (for example, a correspondent lender who takes applications for loans, then sells such loans to a reporting institution). It remains unclear what liability the institution bears for errors/discrepancies in this situation. For example, if the third party indicates that the application was submitted by mail, yet also reports that GMI was collected on the basis of visual observation, it is not clear whether the reporting institution has any obligation to seek clarification.

***45. Question Re: Sample Data Collection Form***

Our software vendor recently completed an update to fix some issues with HMDA. Prior to the change, when an application was taken via the internet or phone, the Demographic Information Addendum would populate with nothing checked off for the three questions that ask if the race, sex and ethnicity were collected on the basis of visual observation or surname. The three questions answered as "No" and the corresponding fields on the HMDA Report would come out as a "2" Not collected on the basis of visual observation or surname.

Now, if we don't check off "No" for if the race, sex and ethnicity were collected by visual observation or surname, the corresponding field on the HMDA Report is coming out as a "3" Not Applicable.

Is it permissible for the Demographic Info Addendum to be completed with three "No's" on the application for loans that were NOT taken face to face in order to get the corresponding fields to come out as a "2"?

It appears to be clear from the FIG that the based on visual observation question needs to be completed and only use "NA" for entities. However, there is general confusion about this because the GMI collection form is worded in such a way to lead one to believe that this should only be answered "yes" if the customer really is in front of you.

**Pricing Outcomes and Components**

***46. Recommendation Re: 12 C.F.R. § 1003.4(a)(12) – Rate Spread***

We urge certain rectifications to provisions affecting "Rate Spread" and the date the interest rate is set ("the rate set date"). The regulation currently indicates that if there is a rate lock agreement, the rate set date is the date the institution "exercises discretion in setting the rate for the final time before final action is taken." *See* Official interpretation of 4(a)(12)-5. It further states that if no rate lock is issued, the rate set date is "the date on which the institution sets the rate for the final time before final action is taken." *Id*. Where an institution has a consistent practice for determining the date of the rate sheet to be used, these requirements may result in using an artificial rate set date to determine the rate spread, rather than the actual pricing date the institution used. This may significantly affect the usefulness of rate spread data. The current rule, by focusing only on the interest rate, fails to consider that lenders offer consumers a number of different interest rate and discount point combinations and lets consumers change their mind on which particular combination is desired. Such a change usually causes only a small change in the APR, but it may significantly change the rate set date and the average prime offer rate (APOR).

We recommend that the regulations be amended to provide that if an institution has a consistent practice as to the date of the rate sheet it uses to set the interest rate, then the institution can use the date of that rate sheet as the date the interest rate is set for the purpose of determining the APOR.

***47. Question Re: 12 C.F.R. § 1003.4(a)(12) – Rate Spread***

If a lender's system calculates a non-rounded APR, but the lender rounds the APR in its Reg Z disclosures, which should the lender use to calculate and report Rate Spread?

Reg C requires that institutions report the difference between the loan's APR and average prime offer rate. Comment 4(a)(12)-3 instructs the institution to use the APR "calculated and disclosed" pursuant to Regulation Z (§§ 1026.18 or 1026.38 for closed-end loans, and § 1026.6 for open-end credit). Often, however, there's a difference between APRs "calculated" under Reg Z and APRs "disclosed" under Reg Z. For example, the lender's system might calculate the APR accurately under Reg Z, with the result carried out to several decimal places. The lender's disclosures, however, will round this figure, as also permitted or required by Reg Z:

- For most closed-end loans, § 1026.38 requires that the Closing Disclosure round the APR to three decimal places.
- For open-end credit, §1026.14 permits APR rounding (yet unlike § 1026.38, stops short of requiring it).

In this situation, if the lender uses the rounded APR on the disclosure, its Rate Spread calculation will also be rounded. But if the lender uses its system calculated APR, the Rate Spread will have additional decimals. The Filing Instructions Guide appears to contemplate this:

- Specification 2-59 instructs the institution to enter the result as a percentage, to at least three decimal places. Numbers calculated beyond three decimal places "may either be

reported beyond three (3) decimal places or rounded or truncated to three (3) decimal places".

- The 2019 FIG goes even further, allowing up to 15 decimals.

The distinction would seem to have little impact on analysis of the HMDA data, since the rounding will usually be less than a single basis point.

Our question, then, is the true meaning of Reg C Commentary's instruction to use the APR "calculated and disclosed pursuant to Regulation Z". Must the lender use only the rounded APRs that was "disclosed" under Reg Z? Or may the lender instead use the non-rounded APR "calculated" under Reg Z?

### *48. Recommendation Re: 12 C.F.R. § 1003.4(a)(19) – Points Paid to the Creditor to Reduce the Rate*

In most cases, points to reduce the rate are paid by the borrower. In some cases, however, they may also be paid by the lender, the seller of a property, or some other third party. Our understanding is that the Bureau interprets this requirement as coving all points paid, regardless of source. However, that is not entirely clear from the regulation itself.

Regulation C references the Loan Estimate and Closing Disclosure requirements of Regulation Z, but those sections are also unclear. Reg Z section 1026.37 discusses disclosure of discount points "that the consumer will pay", and while section 1026.38 requires disclosure of all amounts, it also references back to the Loan Estimate rules. The Bureau's Small Entity Compliance Guide, and FFIEC's HMDA: Getting it Right! guide both point to the "total on Line A.01" of the Reg Z Closing Disclosure. However, that line reports borrower-paid, seller-paid and third-party paid items separately, without totaling them together.

Anecdotally, we believe a number of institutions and vendors have found this topic confusing. To avoid this confusion and ensure data consistency, the Bureau should clarify the scope of this requirement.

### *49. Recommendation Re: 12 C.F.R. § 1003.4(a) – Interest Rate*

It is somewhat unclear how to report the interest rate in Correspondent lending, particularly for ARMs. Where the lender underwrites and approves ARM loans for our Non Delegated Correspondents, but the loan does not get presented for purchase, we report these loans on the LAR as "Approved Not Accepted." At the time of Underwriting, our underwriter will rely upon the rate presented to the lender by the Correspondent, but will not know whether the loan has been is locked by the Correspondent with the Consumer. The lender will also often have no knowledge whether the Correspondent has provided a Loan Estimate or Closing Disclosure to the consumer. Finally, because Correspondents have flexibility to negotiate interest rates, the rate approved by the institution may not be the same as the rate negotiated with the consumer.

With no disclosures available to the underwriter, and no certainty of the actual rate agreed to by the consumer, we believe it is appropriate to consider rate "unknown" at the time of approval and thus, report the fully indexed rate, but clarification would be helpful on this point.

### *50. Recommendation Re: 12 C.F.R. § 1003.4(a)(18) – Origination Charges*

We recommend that the Bureau modify the data point of total origination charges. Specifically, we believe that total origination charges should not be a reportable field for purchased covered loans and instead should be reported as not applicable. The total origination charges for a loan is unrelated to the purchasing of the loan and provides no insight into these loans. This would align total origination charges with several other data fields for purchased covered loans related to origination, such as application date, ethnicity, race, sex, age, income, credit score, debt-to-income ratio, combined loan-to-value ratio, loan purpose, rate spread, application channel, and automated underwriting system.

### *51. Recommendation Re: 12 C.F.R. §§ 1003.4(a)(12), (17) – (21) – Pricing Information on Approved But Not Accepted Applications*

The Bureau should eliminate reporting of pricing information on "Approved But Not Accepted" applications. For these applications pricing information is not reliable because pricing often has not been finalized, and any price statement is generated only to have something to report for HMDA. For HELOCs, using pricing information from the generic disclosure given at application pursuant to 12 C.F.R. §1026.40 results in a Rate Spread that is very likely to be substantially different than if the account was opened. We urge that the Bureau remove requirements that lenders collect and report the following fields for Approved But Not Accepted applications:

- Rate Spread
- Total Loan Costs/Total Points & Fees
- Origination Charges
- Discount Points
- Lender Credits
- Interest Rate

## AUS and Result

### *52. Question Re: 12 C.F.R. § 1003.4(a)(35) – AUS and Result*

Our Director of Fair & Responsible Banking is concerned that the mortgage department is not reporting an AUS and Result on applications that do not end up as originations. The Mortgage department's decision on how to report this area is that although there are multiple AUS runs from the beginning of an application, it's not considered to be an official AUS recommendation until it is run by the Underwriter and the application is approved. That is the AUS relied upon when making the decision. For denied, withdrawn, and any incomplete applications, we are reporting "NA" for the AUS used for the credit decision and the AUS result.

### *53. Question Re: 12 C.F.R. § 1003.4(a)(35) – AUS and Result*

How should we report FHA HMDA loans for the underwriting piece? We run desktop underwriter (DU) for FHA to get the total scorecard. Should we report Total Scorecard or DU? Our DU gives us an approved/eligible. The results do not indicate "an accept" as per the FHA total scorecard results. For HMDA, we are reporting AUS engine as Total Scorecard and approved eligible (who are getting Q632) because we are not using Accept.

***54. Question Re: 12 C.F.R. § 1003.4(a)(35) – AUS and Result***

We use loan prospector (LP) and DU but it includes TOTAL Scorecard, do we report DU or LP as AUS system #1 and TOTAL Scorecard under system #2 or just report LP or DU? This seems to be an area of confusion in the industry.

***55. Question Re: 12 C.F.R. § 1003.4(a)(35) – AUS and Result***

We run conforming loans through DU and receive a response 1-15. We can also receive the response with 'observations' that, per FNMA, requires the underwriter to disregard the DU response and manually underwrite.

For this scenario, we selected 1 (DU) for the AUS and 16 (Other) for the AUS response and reported 'manually underwrite' in the AUS Free Form field since we view FNMA's response as manually underwrite.

We are receiving a Q643 edit, which states that if the AUS system is DU, the response should be 1-7, or 15.

I would like your opinion as to whether or not reporting 16 with a free form comment is appropriate in this scenario.

***56. Recommendation Re: 12 C.F.R. § 1003.4(a)(35) – AUS and Result***

The regulators must clarify reporting requirements concerning proprietary AUS systems. AUS systems may be designed by securitizers, insurers, or guarantors to be used by many different creditors. These systems are designed to produce clear results as to whether loans may be securitized, insured, or guaranteed, and such systems have significant impact on the market as a whole. Proprietary AUS systems are often designed to manage an institution's process flow and often they may run eligibility requirements and credit checks without producing clear "results." They also have little impact on the market as whole. An institution may use multiple proprietary systems where one system evaluates credit and another system evaluates eligibility. In short, if an institution uses an AUS that is only used by it and its affiliates, that AUS system is not a reportable AUS system.

In addition, the current rule provides that when multiple AUS results are obtained that the institution must follow a specified hierarchy to determine which result to report. The problem is that the hierarchy often has an institution report an AUS and AUS result that it did not rely upon. This makes the AUS fields less useful, and it places an unnecessary compliance burden on financial institutions to track AUS results that they do not use. We would advise that the Bureau permit financial institutions that have received AUS results from more than one AUS to report the AUS that was actually relied upon when evaluating the application.

**Construction/Permanent Loans**

***57. Question Re: 12 C.F.R. § 1003.4(a)(8)(ii) – Action Taken Date – Construction/Permanent Loans***

More clarity is needed on reporting of construction-to-permanent loans. Do financial institutions report the closing date or the date the loan converts to permanent financing? Please note that construction loans will automatically convert to permanent financing after the construction is complete, and that date is often unascertainable at the time of reporting.

***58. Question Re: 12 C.F.R. §§ 1003.4(a)(8)(ii), (a)(26), (a)(27) – Action Taken Date; Introductory Rate Period; Non-Amortizing Features – Construction/Permanent Loans***

I need clarification please. We purchase one-time construction permanent loans that are modified prior to our purchase. These loans have a 12-month interest only (fixed) period during construction and then modify to an amortizing fixed rate at completion. For HMDA reporting, the Bureau's reference chart indicates for "Introductory Rate Period" we are to enter "NA" for purchased loans, however, for "Non-Amortizing Features" it appears that we still enter "Code 1" for interest only payments. Is that correct?

Further, when we report these loans are we correct in reporting the data from the initial closing? At construction completion, the correspondent modifies the loan prior to our purchase with a modification in interest rate, for example. It seems odd to report the loan amount at purchase (which could be different from the initial loan amount) yet report everything else from closing.

This has been quite the conundrum because HMDA does not specifically address construction permanent loans.

***59. Question Re: 12 C.F.R. §§ 1003.4(a)(17) - (20) – Loan Costs, Origination Charges, Discount Points, and Lender Credits – Construction/Permanent Loans***

I am in need of an opinion regarding the reporting of loan costs, origination charges, etc. on the HMDA LAR for construction/permanent loans.

We have a one-time close construction/permanent product. When the home is completed, we modify the loan to permanent financing and use that date as our origination date for HMDA purposes. The modification is just that – a modification. No new disclosures are generated or provided to the customer at that point. All disclosures are generated and provided at the closing that is done right before construction begins.

Our HMDA specialist posed a question regarding the Loan Costs, Points and Fees, Origination Charges (Borrower Paid), Discount Points Paid to Reduce Rate and Lender Credits. Since we do not issue a new CD at the time of modification and the CD is the source document to obtain most of these "costs", we are trying to obtain guidance on whether or not we report the "cost" from the CD that was provided at closing. The duration of these loans is typically 9 plus months and sometimes the closing and the modification occur in different years – this fact may not even matter, but it's causing us to scratch our heads.

**Other**

***60. Recommendation Re: Official Interpretations: 4(a)(12)-9, 4(a)(17)(i)-3, 4(a)(19)-3, 4(a)(20)-3, and 4(a)(21)-1 – Corrected Disclosures***

The Bureau must fix regulatory provisions concerning reporting in instances where lenders issue corrected disclosures. *See* Official interpretations of 4(a)(12)-9, 4(a)(17)(i)-3, 4(a)(19)-3, 4(a)(20)-3, and 4(a)(21)-1. In general, if a lender finds an error in a field before reporting, it corrects that field and reports accurate information. However, for the rate spread and for the pricing fields that are taken from TILA disclosures, the accurate corrected values may not be reported if the correction occurs in the following year. When the corrected disclosure is provided in the following year, it would lessen the compliance burden if the institution had the option of reporting the corrected values, and it would improve accuracy.

For HELOCs, the current commentary for rate spread addresses corrected HELOC disclosures, but the current commentary for interest rate does not address corrected HELOC disclosures. The rules should be the same for both fields.

***61. Recommendation Re: 12 C.F.R. § 1003.4(a)(34) – NMLS***

The Bureau should add clarity to HMDA requirements regarding the reporting of NMLS numbers in instances where there may be multiple mortgage loan originators. We ask that the Bureau adopt a rule that clarifies that if both a mortgage broker's MLO and creditor's MLO have been assigned to the transaction, then either one may be designated as the loan originator with primary responsibility under the reporting institution's written policies.

***62. Recommendation Re: 12 C.F.R. §§ 1003.5(c) & (d) – Written Notice of Availability of HMDA Data***

With regard to the "Written Notice of Availability of HMDA Data," the Bureau should remove the requirement to provide a written notice of the availability of HMDA data and instead require the institution to provide the Bureau's web site address orally or in writing. As a practical matter, anyone requesting access to HMDA data is aware of the nature of that data. The written notice directs the requester to the Bureau's web site, www.consumerfinance.gov/hmda. The notice is essentially identical to the lobby sign that is posted in the same office and does not add any useful information to the information on the sign. Once a requester is made aware of the fact that the data is now made available online, a simple Google search will identify the Bureau's site.

***63. Question Re: 12 C.F.R. §§ 1003.4(16) – Reason for Denial***

Under Comment 4(a)(16)-1, the institution reports up to four principal reasons for the denial. Under Comment 4(a)(16)-3, if the institution provides an adverse action notice pursuant to Regulation B, the institution should report the reasons provided on the notice for HMDA purposes. Regulation B, however, does not limit the number of reasons that may be contained in an adverse action notice, and some institutions provide Regulation B notices with more than four reasons. When this occurs, there is no guidance on how to identify the four "principal" reasons from the notice.

# Attachment B

# Joint Letter to CFPB on HMDA ANPR - Commercial

BY ELECTRONIC SUBMISSION: *2019-ANPR-HMDA@cfpb.gov*

October 15, 2019

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

**Re: HMDA ANPR on Coverage of Business-to-Business Multifamily Loans**

Dear Director Kraninger:

The undersigned organizations respectfully submit these comments on the Advanced Notice of Proposed Rulemaking (ANPR)[1] issued by the Consumer Financial Protection Bureau (Bureau), as it relates to reporting "business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling" under Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). We appreciate the opportunity to share our views as the Bureau reconsiders the application of HMDA to such loans.

Our organizations represent a broad range of businesses that make or enter into business- and commercial-purpose loans secured by multifamily properties. This includes banks and other depository institutions of all sizes, life insurance companies, sponsors of commercial mortgage-backed securities, and investment funds, among other lenders, as well as business entities that are owners of multifamily properties, all of which are affected directly or indirectly by the application of HMDA to such transactions.

[1] 84 Fed. Reg. 20049 (May 8, 2019). The ANPR also solicits comments on HMDA data points that added or revised in the Bureau's October 2015 final rule amending Regulation C, which this document does not directly address.

## I. EXECUTIVE SUMMARY

In our view, the substantial regulatory burden of HMDA reporting of business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling (business-to-business multifamily loans) more than outweighs the potential value of such data in serving HMDA purposes.

We believe the HMDA value of data on such transactions is minimal because:

- Most HMDA data fields are inapplicable to business-to-business and/or multifamily loans;
- Much of the HMDA data on loan terms and underwriting (e.g., data on non-amortizing features) does not have the same information value in a commercial-lending context because of differences in common loan structures and in underwriting;
- Data on *multifamily affordable units* paints an incomplete and potentially misleading picture of actual affordability and may be publicly available outside of HMDA; and
- Any HMDA value served by location data in multifamily lending is outweighed by privacy risk to borrowers (e.g., 2018 HMDA data showed 19,172 Census tracts with only one or two multifamily loans reported).

Moreover, the limited value of data on such mortgages is highlighted by lack of coverage it received in the extensive analysis and other materials accompanying the Bureau's release of the 2018 HMDA data related almost exclusively to single-family lending.

That minimal value of HMDA information on such transactions is substantially outweighed by the corresponding collective burden on the entire multifamily lending industry (including 2,828 depository and non-depository lenders) that must adapt a HMDA reporting regime designed with consumer lending in mind to fit multifamily lending (this means developing a separate multifamily set of HMDA reporting processes and employing the extensive manual processes necessary to adapt consumer-focused HMDA to multifamily lending transactions).

Moreover, that burden is clearly not justified at the institution level in most cases, in that, for 2018, HMDA data show that 49 percent of institutions that reported both single-family and multifamily loans reported between 1 and 5 multifamily loans, 70 percent of those institutions reported between 1 and 10 multifamily loans, and 89 percent of those institutions that reported 25 or fewer multifamily loans.

For that reason, we appreciate that the Bureau has issued an Advance Notice of Proposed Rulemaking seeking input on whether to exempt loans to business entities secured by multifamily properties from HMDA reporting. We believe the appropriate result of the ANPR should be a determination that business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling, or multifamily loans generally, should be exempt from HMDA, and actions to implement that determination by way of an amendment to Regulation C.

In addition to reflecting an appropriate balance of benefits and burden, a determination to exempt multifamily loans from Regulation C would be fully consistent with the intent of Congress. For example, Congress named the statute the *Home Mortgage* Disclosure Act and enacted it to respond to congressional findings regarding "home financing." Multifamily loans are not "home mortgages" or "home financing."

In addition, the Dodd-Frank Act designated HMDA to be a "federal *consumer* financial law" and an "enumerated *consumer* law," and transferred HMDA from the Federal Reserve to

the *Consumer* Financial Protection Bureau (CFPB), a new federal agency created by Dodd-Frank to focus on "*consumer* financial products and services." Business-to-business loans or multifamily loans are not "consumer financial products or services," and business-entity borrowers are not "consumers." Accordingly, as we discuss in greater detail below, amending Regulation C to exempt business-to-business multifamily loans, or multifamily loans generally, would be fully in harmony with the evidence of the intent of Congress.

Finally, for purposes of our recommendation, we believe that loans secured by mixed-use multifamily properties should be considered to be multifamily loans, so that a HMDA exemption for loans secured by multifamily properties would apply equally to loans secured by mixed-use multifamily properties.

## II. COMMENT

### A. HMDA data on "business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling" is of little or no value for HMDA purposes.

For the reasons set forth below, we believe that HMDA data on business-to-business multifamily loans is of little or no value for HMDA purposes.

- **Many HMDA data fields are inapplicable**. Many HMDA data fields are inapplicable to business-to-business or multifamily loans. This includes the key fields of ethnicity, race, sex, age, and income of applicants and borrowers.[2] If those data fields are critical to the achievement of HMDA purposes, HMDA data on business-to-business loans or multifamily is of no value to those purposes.
- **Loan term and underwriting data do not have information value in a commercial context**. While some data fields regarding loan terms and underwriting may nominally appear to apply to business-to-business multifamily loans,[3] in a commercial multifamily context much of that data (e.g., data on non-amortizing features such as interest-only or balloon loans) does not have the same information value, because of differences in common loans terms and in underwriting.
- **Incomplete, misleading, publicly-available affordability data**. Data responsive to the *Multifamily affordable units* data field provides an incomplete picture of actual affordability because it counts only units that are income-restricted under governmental programs.[4] Moreover, such information may be directly available to the public through the offices of the relevant government programs.
- **Location data risks borrower privacy.** Any value from information about the location of multifamily properties is more than

[2] See Appendix B to Part 1003 — Form and Instructions for Data Collection on Ethnicity, Race, and Sex, item 7; Supplement I to Part 1003—Official Interpretations, Comment for 1003.4—Compilation of Reportable Data, Paragraph 4(a)(10)(ii)—5 (age); Paragraph 4(a)(10)(iii)—7 (income data). Other data fields generally inapplicable to multifamily lending include: *preapproval; rate spread; HOEPA status; credit score; total loan points/total points and fees; origination charges; discount points; lender credits; prepayment penalty; debt-to-income ratio; manufactured home secured properties type; and manufactured home land properties interest.*

[3] Including: *non-amortizing features, loan terms, interest rate, introductory rate period, property value, lien status, loan amount, CLTV, credit score, preapproval, automated underwriting system, application channel, and action taken*.

[4] 12 C.F.R. § 1003.4(32) ("If the property securing the covered loan or, in the case of an application, proposed to secure the covered loan includes a multifamily dwelling, the number of individual dwelling units related to the property that are income-

outweighed by the substantial privacy risk to borrowers. For example, based on 2018 HMDA data, some 19,172 Census Tracts had only 1 or 2 reported multifamily loans, and 24,587 Census Tracts had between 1 and 10 reported multifamily loans, so the risk of identifying specific properties and borrowers is real.

- **The Bureau's release of 2018 data focuses on single-family lending**. The vast majority of the data tables, figures, and market trend information accompanying the Bureau's release of 2018 HMDA data *exclude* data on multifamily loans, explicitly or because they reflect data from fields (e.g., race, ethnicity or age) that are inapplicable to non-natural person borrowers.[5] This is consistent with a conclusion that HMDA data on business-to-business or multifamily loans is of low value of HMDA data for HMDA purposes.

**B. HMDA reporting on multifamily loans is highly burdensome.**

***a. It is burdensome to adapt commercial lending to HMDA reporting designed to fit single-family lending.***

HMDA and its implementing regulations and reporting infrastructure are aligned to fit single-family systems and processes. Those process include a high degree of automation and standardization (e.g., standard forms developed by Fannie Mae and Freddie Mac); systems and processes developed around the substantial regime of federal consumer financial laws, including the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA); and underwriting that focuses on the ability of the borrower to repay the loan from sources other than net income from the property.

The context of commercial multifamily lending is very different. For example, there is no standard application process (commercial multifamily loan application processes may vary within a financial institution as well as across institutions), and application processes are not substantially shaped by consumer financial laws.

In addition, commercial multifamily lending transactions are largely individualized to each lending situation; underwriting typically includes substantial focus on the ability of the net operating income of the property to service the debt; loan terms like prepayment restrictions that may be problematic in single-family mortgage lending are common and appropriate in commercial multifamily lending, and the loan origination systems supporting these transactions may lack the level of automation that is typical in systems supporting single-family home mortgage lending.

As a result of those differences, the regulatory burden of HMDA reporting of multifamily loans is much greater than the already substantial burden of HMDA reporting of single-family loans. This includes the need to establish separate HMDA reporting processes for commercial multifamily loans and a need to conduct substantial manual processing.

That manual processing includes manually transcribing data from commercial loan origination systems, resolving reportability questions, transferring and transforming data to the necessary data formats, geocoding, completing repeated rounds of quality control checks across multiple departments, resolving

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restricted pursuant to Federal, State, or local affordable housing programs.").

[5] See *Introducing New and Revised Data Points in HMDA; Initial Observations from New and Revised Data Points in 2018 HMDA* (CFPB August 2019); and *Data Point: 2018 Mortgage Market Activity and Trends; A First Look at the 2018 HMDA Data* (CFPB August 2019).

false-negative flags generated by $10 million *Loan amount* data edit designed to identify errors for single-family lending,[6] and manually populating the appropriate "NA" entries for the many inapplicable fields.

In addition, as was reflected in a STRATMOR Group Survey of 186 lenders who reported 2018 HMDA data,[7] survey respondents found that the Current Loan to Value Ratio (CLTV) was exceptionally difficult to apply where a loan is secured by multiple multifamily properties.[8] It is a common practice in multifamily lending to cross-collateralize a loan with multiple properties, each of which may be in a different lien position.

***b. The Multifamily affordable units data field is difficult to report, despite being established for multifamily lending.***

The one data field that applies only to multifamily loans, *multifamily affordable units,* also proved to be very difficult to report. For example, STRATMOR Group Survey respondents ranked *multifamily affordable units* as the second most difficult data field to report, falling below only the exceptionally difficult free form *race/ethnicity fields* because, for example, that information may not be collected as part of the underwriting process and, in some cases, reporting institutions must obtain the necessary information from the relevant government program office—which is something interested members of the public could similarly accomplish.[9]

***c. The cumulative reporting burden on the industry of HMDA reporting on multifamily loans is enormous, while multifamily loan volumes for individual institutions do not warrant establishing the separate HMDA reporting process necessary to report on such loans.***

The burden of reporting on multifamily loans is borne by 2,828 financial institutions, or about half of the 5,627 financial institutions that reported 2018 data.[10] Therefore, any possible value of HMDA data must be weighed against the *cumulative* regulatory burden borne by about half the mortgage lending industry.

In addition, the 2018 HMDA data show that 49 percent of institutions that reported both single-family and multifamily loans reported between 1

[6] See *Filing instructions guide for HMDA data collected in 2018*, Edit ID 627, p. 172 (FFIEC, Sept. 2018).
[7] STRATMOR Group, HMDA REPORTING ASSESSMENT SURVEY, copy attached as an Appendix to this letter. The STRATMOR Group is an independent consulting, analytics, and advisory services firm that specializes in mortgage banking.
[8] STRATMOR Group Survey, slides 30-31 (Sept. 6, 2019) (CLTV ranked third most difficult data field, behind only Free form *race/ethnicity* fields and *multifamily affordable units*. Narrative responses related to multifamily lending included: "*Affected Commercial Loans mostly*:" "*Value relied on not available in commercial LOS-lender must manually enter and struggle with including all collateral*").
[9] STRATMOR Group Survey, slides 30, 32 and 35. Narrative comments included: "*There is no place to verify which units are 'affordable' even HUD said they didn't like this reporting requirement*." "*No one besides full time HMDA employees understands this field and requires questions to the customer after closing, which is not professional*." "*This only affects the commercial area and is a manual input by lenders*." "*Requirements are onerous and not easily understood by staff*." "*Particularly with withdrawn and denied applications, information may not be available since it is typically not collected by the loan officer, can be validated only through an appraiser or other underwriting confirmation*." … "*Difficult for lenders to understand how to properly enter this HMDA data and more guidance is needed or field removed manual data entry*.").
[10] The 2018 HMDA data show a total of 5,627 reporting institutions, 2,799 of which reported only single-family loans; 2,791 of which reported both single-family and multifamily loans, and 37 of which reported only multifamily loans.

and 5 multifamily loans, 70 percent of those institutions reported between 1 and 10 multifamily loans, and 89 percent of those institutions that reported 25 or fewer multifamily loans. As a result, it is apparent that multifamily loan transaction volumes for a substantial proportion of those institutions are not high enough to warrant the effort of establishing a separate HMDA reporting process to report those loans.

Multifamily loans to natural-person borrowers are small percentage of all reported multifamily loans,[11] so a determination to exempt business-to-business multifamily loans should, for practical considerations, be broadened to exempt multifamily loans generally. That is, the very small volume of multifamily loans to natural-person borrowers would surely not warrant the effort of establishing a separate HMDA reporting process to report those loans.

***d. Exempting multifamily loans would be fully in harmony with congressional intent.***

In addition to reflecting an appropriate balance of benefits and burden, a determination to exempt multifamily loans from Regulation C would be fully in harmony with the apparent intent of Congress.

The language of HMDA does not directly require HMDA reporting on multifamily loans, and there is evidence to suggest that Congress did not intend for HMDA to be interpreted to apply to such transactions. For example, the title of the Act is the *Home Mortgage* Disclosure Act, and congressional findings within HMDA indicate Congress enacted HMDA to address concerns about failures to provide adequate "home financing" to qualified applicants on reasonable terms and conditions.[12] Multifamily loans are not "home mortgages" or "home financing."

Also, the HMDA "activity test" requires a depository institution to report under HMDA only if it originates at least one single-family mortgage (without regard to how many multifamily mortgages it has originated).[13] This test effectively exempts depository institutions that make only multifamily loans, which would be nonsensical in a statute intended to require the collection of data on multifamily loans.

The Dodd-Frank Act provides additional evidence suggesting that Congress did not intend for HMDA to apply to multifamily transactions. For example, Dodd-Frank designated HMDA as an "enumerated consumer law" and as a "federal consumer financial law,"[14] and transferred HMDA from the Federal Reserve to the Bureau,[15] a federal agency focused on protecting consumers in connection with "consumer financial products and services,"[16] and granted the Bureau supervisory authority over "covered persons."[17] Multifamily loans and other business- or commercial purpose loans are not "consumer

[11] We estimate that between 6,700 and 7,100 (13-14 percent) of multifamily loans reflected in the 2018 HMDA data were made to "natural person" borrowers.

[12] 12 U.S.C. § 2801(a) ("FINDINGS OF CONGRESS. The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.").

[13] See 12 C.F.R. § 1003.2(g)((iii) and FFIEC, A GUIDE TO HMDA REPORTING: GETTING IT RIGHT, pp. 2-3 (2018 Edition) ("Loan Activity Test").

[14] See 12 U.S.C. § 5481(12) (defining "enumerated consumer law" to include HMDA); (14) (defining "federal consumer financial law" to include HMDA).

[15] See 12 U.S.C. § 5581 (Transfer of consumer financial protection functions).

[16] See 12 U.S.C. § 5511 (Purpose, objectives and functions).

[17] See 12 U.S.C. §§ 5514-5516.

financial products or services,"[18] business-entity borrowers are not "consumers,"[19] and many multifamily lenders required to report under Regulation C (e.g., life insurance companies) do not offer or engage in consumer financial products or services and so are not "covered persons."[20]

In the one instance where Congress intended to authorize the Bureau to reach transactions that do not involve consumer financial products or services, it did so explicitly by amending ECOA to explicitly authorize the Bureau to collect and publish data on loan applications by women-owned, minority-owned and small businesses.[21] Congress did not add any comparable non-consumer exceptions with respect to HMDA.

In sum, we believe that exempting multifamily loans from HMDA would be fully in harmony with the statutory evidence of congressional intent.

***e. Loans secured by multifamily mixed-use properties are also loans secured by multifamily properties.***

Regulation C does not address mixed-use multifamily properties. Rather, the Official Interpretations of Regulation C describe a "mixed-use property" is a property used for both residential and commercial purposes, such as a building containing apartment units and retail space and provide that a loan secured by a mixed-use property is subject to HMDA reporting if the property's primary use is residential.[22]

The Bureau's implementation guidance, *HMDA transactional coverage*,[23] provides examples of mixed-use properties, including: properties for long-term housing and related services (such as assisted living for senior citizens or supportive housing for people with disabilities); and properties for long-term housing and medical care if the primary use is residential.

Based on that interpretation and guidance, it seems clear that multifamily mixed-use properties used primarily for residential purposes can also be characterized as multifamily properties. If a property contains five or more units and its primary use is residential, it is a multifamily property. As a result, any possible exemption for loans secured by multifamily properties should apply equally to loans secured by mixed-use multifamily properties whose primary use is residential.[24]

Accordingly, please consider our recommendation that the Bureau exempt multifamily loans from HMDA reporting, to include a recommendation to exempt loans secured by mixed-use multifamily properties whose principal purpose is residential.

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[18] See 12 U.S.C. § 5481(12) (defining "consumer financial product or service").
[19] See 12 U.S.C. § 5481(4) (defining "consumer").
[20] See 12 U.S.C. § 5481(6) (defining "covered person").
[21] See Dodd-Frank Act, § 1071. Small Business Data Collection.
[22] See 12 C.F.R. Supplement I to Part 1003 – Official Interpretations, Comment for 1003.2(f)—4.
[23] Available at: https://files.consumerfinance.gov/f/documents/201709_cfpb_2018-hmda-transactional-coverage.pdf
[24] In fact, loans secured by mixed-use multifamily properties are at least as deserving of an exemption as are other multifamily loans. Data about loans secured by mixed-used multifamily properties is likely to be of even less value for HMDA purposes than the low value of data about loans secured by multifamily properties generally that we describe above. Similarly, the regulatory burden of collecting and reporting data on loans secured by mixed-used multifamily properties is likely to be even greater than the substantial burden of collecting and reporting data on other multifamily loans we describe above.

## III. CONCLUSION

This ANPR creates an opportunity for the Bureau to make a sensible adjustment to Regulation C with respect to multifamily loans, and that adjustment that would be in harmony with congressional intent. We urge the Bureau to expeditiously to exempt multifamily loan transactions from HMDA reporting requirements under Regulation C. While the Bureau is explicitly considering the application of HMDA to "business- and commercial-purpose loans made to a non-natural person and secured by multifamily properties," the most practical is to also exempt the rare examples of multifamily loans to natural person borrowers.

Our respective organizations appreciate this opportunity to participate in the Bureau's consideration of the HMDA treatment of "business- and commercial-purpose loans made to a non-natural person and secured by multifamily properties," and we look forward to working with the Bureau as it takes further actions toward granting HMDA reporting relief as to such transactions.

Respectfully,

**Mortgage Bankers Association**

**American Bankers Association**

**Bank Policy Institute**

**CRE Finance Council**

**Nareit**

**National Apartment Association**

**National Multifamily Housing Council**

**The Real Estate Roundtable**