October 29, 2014

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Office of the Executive Secretary
Consumer Finance Protection Bureau
1700 G. St., NW
Washington DC 20552

RE: Proposed Rule Amending Regulation C
Docket No. CFPB-2014-0019; RIN 3170-AA10

To Whom It May Concern:

The Greenlining Institute (Greenlining) thanks the Consumer Financial Protection Bureau (CFPB) for the opportunity to comment on its proposal to modernize and expand Home Mortgage Disclosure Act (HMDA) data to enhance HMDA's intended value and usefulness for our communities.

Greenlining works to ensure that everyone can realize their own version of the American Dream, regardless of race or zip code. In a nation where people of color will make up the majority population by 2050, America will prosper only if communities of color prosper. We pursue a multi-issue platform of racial and economic justice to promote America's future prosperity.

Our coalition is comprised of over 40 community based organizations, including housing counseling agencies, CDCs, CDFIs, and ethnic chambers of commerce, that are dedicated to meeting and protecting the economic and housing needs of communities of color. We do this in many ways, yet HMDA is a key resource to our work and success.

With $7 Trillion of Wealth Stripped from Communities, HMDA is More Vital than Ever

Currently, HMDA data is the only source of demographic data that captures how mortgage lenders serve communities of color. As per HMDA's purpose, this race-based data empowers us to hold lenders accountable for providing equitable access to credit. Unfortunately, in the wake of the crisis, HMDA was insufficient in capturing key housing trends that stripped trillions of dollars of wealth from America's households, and hit communities of color the hardest.

Many American's are still ailing from the recent crisis that stripped well over $7 trillion of wealth in home equity from their households. This was exacerbated in communities of color that lost 40 percent more wealth than their white counterparts:[1] deepening the racial wealth gap. The magnitude of financial loss shouldered by consumers of color was unprecedented.

The CFPBs efforts to enrich HMDA data is critical to ensuring that all consumers have a fair shot at building wealth through home equity, and that lenders and servicers sustainably serve all populations toward this goal. The public, community advocates, and regulators need improved HMDA data, among other tools, to better combat predatory lending and other dangerous practices in the mortgage market.

The proposed HMDA recommendations will not only implement Dodd-Frank Act requirements but also bring the law up to date with the changing market, shifting demographics, and technological advances.

[1] James H. Carr, "Wealth Stripping: Why it costs so much to be poor," Issue #26 in Democracy, Fall 2012, Accessed July 14, 2014, at http://www.democracyjournal.org/26/wealth-stripping-why-it-costs-so-much-to-be-poor.php?page=all.

We commend and support the CFPB for its comprehensive set of proposed changes to HMDA. The below sections address Greenlining's rationale and recommendations for additional changes to Regulation C. In addition, please find suggestions for how the CFPB can ensure that HMDA is truly accessible to all consumers.

The below sections address Greenlining's recommendations for additional changes to HMDA.

Release of New Data

We understand that the CFPB desires to carefully study the costs and benefits of publicly disseminating enhanced HMDA data. We are confident that a careful assessment will result in the robust public dissemination of the new data elements. However, we ask the CFPB to publicly release certain data elements immediately before the results of its assessment. These data elements are unlikely to pose privacy-related questions. In particular, new data on loan purpose (such as home equity loans and lines of credit), reverse mortgages, and more precise reporting of refinance loans do not pose serious privacy issues and would be valuable in assessing whether credit needs are being met.

Threshold for Reporting

The CFPB proposes thresholds regarding which lending institutions are required to report HMDA data. We support the proposal to require non-depository institutions to report data if they make 25 "covered" loans. As the CFPB notes, this will significantly increase the number of non-depository institutions that are required to report and thus will hold these lenders accountable for serving the public in a responsible fashion.

At the same time, we urge the CFPB to refrain from applying this 25-loan threshold to depository institutions. We support applying this standard to non-depository institutions. However, banks making less than 25 loans have already been reporting for several years and are therefore accustomed to reporting. Finally, we urge the CFPB to include multifamily loans in the 25-loan threshold to ensure that institutions specializing in multifamily lending are reporting data, regardless of whether they are making single-family loans.

Loan Terms and Conditions

We believe that robust collection of loan terms and conditions per the Dodd-Frank Wall Street Reform and Consumer Protection Act requirements is important as is the CFPB's proposal to exceed the Dodd-Frank requirements in the case of particular data elements. We are pleased that the CFPB is proposing the collection of pricing information for all loans, point and fee information, origination charges, discount points, and interest rates. More refined pricing information is necessary for identifying possible price discrimination in the prime market.

We strongly support the CFPB's proposal to report whether a loan is a qualified mortgage, the debt-to-income ratio, the Combined Loan-to-Value ratio (CLTV), the Loan-to-Value (LTV) ratio in addition to Dodd-Frank required data elements such as the credit score. Data on loan terms such as adjustable rates, interest-only payments, and balloon payments will provide indications on whether a high incidence of these features, especially in loans to vulnerable and underserved populations, is a cause for concern that requires intervention.

Improved Tracking of Loans

We fervently support the CFPB's proposal to assign a unique loan identifier, which will facilitate the tracking of a loan when it is sold by a lender to Fannie Mae, Freddie Mac, or a private investor. Additional proposals to include a unique identifier for a mortgage loan originator and the loan channel would assist regulatory agencies and members of the public with identifying lending institutions and brokers that are engaging in problematic loan practices.

The parcel number identification is also important to help the CFPB identify loans that are combined with others in such a way that high CLTV ratios overwhelm borrowers' ability to repay loans.

Expansion of Data Elements

Deeping HMDA data will ensure that information provided reflects the changing market, shifting demographics, and technological advances. Furthermore, it will help further identify artificial barriers to homeownership that might be impeding efforts to make consumers, still ailing from the crisis, whole.

The proposed expansion of loan purpose and type will be very helpful in assessing whether lending institutions are responsibly and sustainable meeting the credit needs of our communities

The CFPB's proposal to include all loans secured by residential property, including home equity loans and lines of credit, reverse mortgages, and small business loans (if backed by residential property) will be valuable in assessing whether the neighborhoods we serve are receiving the full range of credit they need.

In response to the CFPB's questions, we support all of the data elements required prior to the passage of Dodd-Frank, as well as but not limited to the following (extended statistical information is captured in the appendix at the end of this letter):

Enhancing Demographic Data

> ***Require robust reporting on borrower age.*** Robust reporting on the age of the borrower (a required element per the Dodd-Frank Wall Street Reform and Consumer Protection Act) is vital to evaluate age biases in lending, and especially in reverse mortgage lending.
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> While most cases of elder abuse go unreported, elders are significantly impacted by financial abuse. Elders, for example, constitute one of every three scam victims. They are also overrepresented in mortgage solicitations, with 70% of elders being solicited to take out new mortgages. And even though they qualify for traditional loans, assistance loans, and loan modifications, they are increasingly targeted for unaffordable loans that lead to foreclosure.[2] This financial vulnerability is exacerbated for seniors of color.
>
> *Historic discrimination jeopardized financial stability for seniors of color.* Seniors of color have less access to the "three legs" of retirement—pensions, savings, and social security. Unlike 42% of whites, only 30% of African Americans and 19% of Hispanics received income from pensions and retirement savings in 2010.[3] The Baby Boomer generation of elders often lacks retirement benefits because they entered the workforce in the late 1960s, during a time of widespread discrimination against people of color.[4] This has had long-lasting and devastating effects on their prospects for financial stability in retirement. This lack of access to adequate retirement benefits has led seniors of color to rely heavily on Social Security benefits and does not provide enough income to sustain retirement, making it difficult to compete with rising home prices and puts them at greater risk of foreclosure.

[2] "Elderly Americans Hit Hardest by Foreclosures," RT News, Published on July 2012, Accessed on July 16, 2014 at http://on.rt.com/0czap5.
[3] National Academy of Social Insurance, "Social Security and People of Color," Accessed on July 16, 2012 at http://www.nasi.org/learn/socialsecurity/people-of-color.
[4] Jacob Dumez and Henoch Derbew, "The Economic Crisis Facing Seniors of Color: Background and Policy Recommendations," The Greenlining Institute, August 2011, Accessed on July 24, 2012 at http://greenlining.org/wp-content/uploads/2013/02/TheEconomicCrisisFacingSeniorsofColor.pdf.

In general, elders find it difficult to purchase and maintain real estate partially because they rely on a fixed income that does not accommodate for rising taxes and/or unexpected expenses, such as the loss of a spouse or an illness. On average, one third of seniors' income goes to their mortgage payment.[5] This leads many to consider home equity loans or reverse mortgages, putting them at risk of foreclosure if the equity loan is unpaid or even eviction if they cannot afford to pay rent when the property is purchased by their bank.

Disclosing age via HMDA data will help stakeholders determine whether older Americans have equitable access to mortgage products. Keeping institutions accountable for their performance in the elderly community will help promote intergenerational wealth, especially among communities of color who have been historically marginalized in the mortgage market.

To protect the privacy of the consumer, the CFPB should disclose age through categories suitable to the 21st century. Rather than categories of "62 or over" and "under 62," more descriptive age groupings are necessary to give the public a clear understanding of mortgage lending trends by age.

For example, age 50 is a critical time period for elders and an important indicator of whether they will be able to sustain their mortgage payments or qualify for a loan before the age of retirement. This is also a key milestone when elders are targeted for more risky loan products.

We therefore recommend that the CFPB:

- Provide the borrower's exact age on the raw data;
- Create age categories in increments of ten years until age 50 for the aggregate data;
- Further divide aggregate data in five year increments between the ages of 50 and 80.

Disaggregate data on Asian borrowers. The level of diversity in the API community makes it a necessity to breakdown the API category. Making this leap will help position the CFPB for the future and ensure that HMDA more accurately reflects the borrowing experiences of various Asian communities.

The API community is not a homogenous group. Since HMDA's implementation in the 1970s, the Asian and Pacific Islander (API) community has increased in size and diversity. In 1970, the census counted 1.4 million Asian Americans, the majority of whom were North East Asians, including 40% Japanese and 32% Chinese. Large migration flows from the Asian-Pacific region during the 1980s and 1990s have led to an exponential increase in the API population size, which was at 17.3 million in 2010.[6] It is estimated that by 2050 the API population will be doubled due to continuous immigration and native born population from South East Asians and Pacific Islanders.

As one of the fastest growing racial groups in America, the API community had one of the fastest growing poverty rates in the wake of the Great Recession. Although the number of people limited income API individuals increased by 50% since 2000 (more than half a million between 2007 and 2011), overall API poverty statistics do not reflect a significant increase. This is due to a concurrent increase in API poverty rates and overall population size.[7] Poverty rates range higher among more recent low-income immigrants and refugee communities such as among Vietnamese, Hmong, and Koreans.

[5] Refinance Mortgage Rates, "Refinance & Mortgage Guide for Senior Citizens," Accessed on July 16, 2014 at http://www.refinancemortgagerates.org/mortgage-guide-for-senior-citizens/.

[6] Elizabeth M. Hoeffel, Sonya Rastogi, Myoung Ouk Kim, and Hasan Shahid, "The Asian Population: 2010 Census Briefs," March 2012, US Census Bureau, Accessed July 31, 2014 at http://www.census.gov/prod/cen2010/briefs/c2010br-11.pdf.

[7] National Coalition for Asian Pacific American Community Development, "Spotlight on Asian American and Pacific Islander Poverty: A Demographic Profile," June 2013, Access on July 31, 2014 at http://nationalcapacd.org/spotlight-asian-american-and-pacific-islander-poverty-demographic-profile.

Because aggregate API data show better access to financial services, many members of the API community are marginalized in discussions about mortgage discrimination. Anecdotal evidence clearly demonstrates that the same level of access is not shared across all API borrowers.

The API category could be disaggregated in several ways. While it has previously been divided into "Asian American" and "Native Hawaiians and Other Pacific Islanders," it can further separated into regional sub-categories that indicate whether they are from the Pacific Islands or from Central, East, Southeast, South, or West Asia. The most common ethnic group breakdown could include Chinese, Filipino, India, Vietnamese, Korean, Japanese, Pakistani, Cambodian, Hmong, Thai, Laotian, Taiwanese, Bangladeshi, Burmese, Indonesian, Nepalese, Sri Lankan, Malaysian, and Bhutanese.[8]

This breakdown will uncover mortgage disparities between members of the API community. Furthermore, it will help reveal which sub-populations need more language access and economic resources. Finally, it will debunk the "model-minority" myth that plagues needed access for the millions of API individuals living in the margins.

Disclose borrower language spoken, language of loan officer, and the application. HMDA data must reflect the nation's growing demographic population, many of which are Limited English Proficient (LEP). In the wake of the crisis, language barriers were a key factor used when targeting Asian Americans and Latinos with predatory loans and mortgage scams.

Financial information is hard to understand even for native English speakers. Language barriers create discomfort, stress, insecurity, confusion, and ultimately can lead to bad financial decisions. These barriers prevent limited-English proficiency consumers from obtaining adequate financial services. Instead, they become victims of predatory loans due to this vulnerability and misinformation. Consumers have the right to have services provided in a clear and accessible language. Full transparency of product(s) would decrease misunderstandings and protect consumers against false promises and predatory loans that are not in their best interest.

Lack of language accessibility greatly affects the Latino and API community. According to the Central American Resource Center (CARECEN), compared to whites, Hispanic consumers have been subjected to fraud at greater rates due to language barriers. For example Central American immigrants under temporary protection are targeted for predatory loans primarily due to their lack of English language proficiency. Despite their vulnerable immigration status, they have been exposed to increasing rates of foreclosures after accepting mortgage loans that appeared to be good deals but turned out to be unaffordable.[9]

Research from the Government Accountability Office supports these realities, described in a report that better fair lending controls are needed to improve access for non-English speakers in government housing programs.[10]
LEP borrowers lack adequate access to sustainable financial products due to many factors, including a lack of access to professional translator services when communicating with financial institutions. For example, an NCLR survey found that out of 85 respondents, only about one in six received financial documents in their preferred language.[11]

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[8] Asian and Pacific Islander Institute on Domestic Violence, "Census Data & API Identities," Accessed on July 31, 2014 at http://www.apiidv.org/resources/census-data-api-identities.php#.
[9] Committee of Financial Services, "Rooting out Discrimination in Mortgage Lending: Using HMDA as a Tool for Fair Lending Enforcement," Hearing before the Subcommittee on Oversight and Investigations, July 2007, Accessed July 24, 2014 at http://www.gpo.gov/fdsys/pkg/CHRG-110hhrg38394/html/CHRG-110hhrg38394.htm.
[10] Government Accountability Office, "Troubled Asset Relief Program: More Efforts Needed on Fair Lending Controls and Access for Non-English Speakers in Housing Programs," Report to Congressional Committees, February 2014, http://www.gao.gov/products/GAO-14-117
[11] National Council of La Raza Blog, "Housing Survey Says Some Mortgage Services Still Don't Follow the Rules," July 2014, Accessed on July 31, 2014 at http://blog.nclr.org/tag/mortgage-servicers/.

In order to track fraud among LEP consumers, HMDA must disclose:

- Whether the borrower was a LEP applicant and the borrowers preferred language;
- If LEP consumer was provided a professional translator or not;
- The loan officer's spoken language;
- If the loan documents were provided in their preferred language.

More Transparent Data on Borrower Access to Credit

Require all financial institutions to report denial reasons. We support the CFPB's proposal to require disclosure of denial reasons. To expand on SBRP's recommendations, data disclosures must move from broad codes to better explanations. For example, identifying that a borrower's credit score was the key barrier to approving a loan is helpful, but incomplete. Similarly, if the primary denial reason is the applicant's debt-to-income ratio, it would help to know the actual ratio that disqualifies the applicant from the loan. Lenders are not comparable across the board. They have varied underwriting standards and thresholds for approving loans.

Requiring mandatory reporting for reasons for denial helps identify the most significant impediments to homeownership. Different types of counseling and intervention is needed depending on whether the most frequent reasons for denial are credit history, debt-to-income ratios, collateral or insufficient savings for down payment. Furthermore, providing such information gives the public a better picture of a bank's loan criteria and therefore increases the usefulness of the data.

Require more information on borrower credit score. The widespread and growing use of credit scores as a gatekeeper to financial opportunity is an increasing barrier to equitable capital and credit access.

Documented research shows that African-American's and Hispanics, for example, generally earn less income and therefore have weaker credit scores compared to whites[12]. They also often lack the credit history necessary to generate a credit score[13]. The lack of a credit score then prevents many consumers from qualifying for affordable mortgage loans that are necessary to stimulate wealth accumulation and stability. Census data also shows that people of color are over-represented in population of consumers with low credits scores and in general, people living in largely communities of color tend to have "non-prime" credit scores, while those living in largely white communities are more likely to have "prime" credit scores.[14]

There is a clear link between low credit access and the persistence of unfair mortgage lending practices in communities of color. According to the Woodstock Institute, individuals with the lowest credit scores, largely found in African American and Latino communities, have more difficulty accessing low-cost products than those with higher credit scores. This creates opportunities for subprime lenders and other deceitful entities to target these communities with products that are unsustainable and often abusive.

At its simplest level, this data shows that we are a long way from equitable access to credit for all, regardless of race and zip code. Providing a clearer picture of a borrower's credit score will help advocates determine whether consumers are in fact denied services based on their

[12] Kathryn L.S. Pettit and Audrey E. Droesch, "A Guide to Home Mortgage Disclosure Act Data," The Urban Institute, December 2008, Accessed on July 16, 2014 at http://www.urban.org/uploadedpdf/1001247_hdma.pdf

[13] Chi Chi Wu, "Credit Scoring and Insurance: Costing Consumers Billions and Perpetuating the Economic Racial Divide," National Consumer Law Center, June 2007, Accessed on July 30, 2014 at http://www.nclc.org/images/pdf/pr-reports/report-insurance-scoring-2007.pdf.

[14] Adam Doster, "Credit Scoring and Economic Opportunity," Progress Illinois, September 2010, Accessed on July 30, 2014 at http://www.progressillinois.com/posts/content/2010/09/15/credit-scores-and-economic-opportunity.

creditworthiness or other factors, like subjective bias. Furthermore, providing a numeric credit score range gives clarity to a bank's credit score threshold for qualifying borrowers.

To protect consumer privacy, while improving the data's utility:

- Raw HMDA data should disclose exact credit score and aggregated data results should provide a range of percentile and/or numeric buckets of 25 points;
- Disclosures should include: whether alternative financial services or credit reporting systems were considered; if the decision was made based on average credit score; the name of the credit rating agency used; the name and version of the scoring model used; and the date the credit score was created.

Clarity on Terms and Purpose of Loan

Clarify purpose for using home as collateral. Identifying if a loan secured by residential property was for a small business or commercial purpose. This is important because low wealth immigrant communities and other communities use this type of financing to expand or start businesses.

Clarify type of refinance loan. Separately identifying cash-out and rate- and term-refinances. Both types of refinance loans serve different purposes and credit needs.

Purchased Loans

It is imperative that loan purchase information be included for all loans purchased. Financial institutions are constantly purchasing mortgage loans to satisfy CRA examinations. Whether the loan was originated or purchased, all data, including borrower's credit score, age, income, ethnicity, race, and gender, should be reported to align with HMDA's stated purpose.

Granular Data on Loan Modifications that Mirrors All HMDA Data

In the wake of the crisis, insufficient data on loan modifications created a missed opportunity to meaningfully address the real needs of communities to make them whole again. Furthermore, given the disparate number of predatory loans and unlawful foreclosures targeted toward borrowers of color, it is critical to track and uncover who receives loan modifications and the differences between them. Communities are still hurting from the crisis, having a robust data set that demonstrates access to loan modifications, and whether racial or ethnic differences exist, for example, is a key missing link in our nation's recovery.

Conclusion

We believe that expeditiously finalizing the HMDA rule is one of the most important actions the CFPB can take to ensure that responsible lending is truly meeting the credit and housing needs of our communities. Transparency and accountability via data disclosure makes lending markets more equitable and efficient. We further believe that the CFPB must make the enhanced data publicly available as soon as possible. We urge immediate disclosure of the new data elements on loan purpose and type that are not as complex as other data elements.

Thank you for the opportunity to comment on this important matter.

Sincerely,

The Greenlining Institute