WOODSTOCK INSTITUTE

Advancing Economic Security and Community Prosperity

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Director Rohit Chopra
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Bureau of Consumer Financial Protection
Docket No. CFPB-2021-0018
Request for Information Regarding the HMDA Rule Assessment

Via email: 2021-HMDA-RFI@cfpb.gov

Introduction
Woodstock Institute submits this comment in response to the Request for Information (RFI) from the Bureau of Consumer Financial Protection (Bureau) in connection with its assessment of the 2015 Home Mortgage Disclosure Act (HMDA) Rule and related amendments. "The purposes of HMDA are to provide **the public** (*emphasis added*) with loan data that can be used: (i) to help determine whether financial institutions are serving the housing needs of their communities; . . . and (iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes."[1]

This comment addresses "the effectiveness of the HMDA Rule in meeting its stated goals and the purposes and objectives of the Dodd-Frank Act"[2] One of those purposes, which is the focus of this comment, is to ensure that consumers "are protected from unfair, deceptive, or abusive acts and practices **and from discrimination** (*emphasis added*.)."[3] Specifically, this comment provides information about "benefits and other outcomes that the HMDA Rule sought to affect, including whether the HMDA Rule has . . . assisted in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. . . ."[4]

This comment has three main themes: 1) shortcomings *in the existing means* by which the Bureau makes the data available to the public; 2) shortcomings *in the data* which the Bureau currently makes available to the public; and 3) potential improvements to the data which could enable users to more effectively promote the antidiscrimination purpose of HMDA.

About Woodstock Institute
Woodstock Institute is a leading nonprofit research and policy organization in the areas of equitable lending and investments; wealth creation and preservation; and safe and affordable financial products, services, and systems. Woodstock Institute works locally and nationally to create a

[1] RFI, pages 7-8, citing 12 CFR 1003.1, and RFI page 27. The antidiscrimination purpose of HMDA was explicitly recognized in 1989 after Congress "expanded HMDA to, among other things, require financial institutions to report racial characteristics, gender, and income information on applicants and borrowers." (RFI, page 26.)
[2] RFI, page 3.
[3] RFI, page 26.
[4] RFI, pages 28-29.

financial system in which lower-wealth persons and communities of color can safely borrow, save, and build wealth so that they can achieve economic security and community prosperity. Our key tools include: applied research; policy development; coalition building; and technical assistance. Woodstock Institute has been a recognized economic justice leader and bridge-builder between communities and policymakers in this field since it was founded in 1973 near Woodstock, Illinois. Among the issues recently on Woodstock's policy agenda are redlining, payday and auto title lending, check-cashing fees, small business lending, abusive municipal fines & fees, and the Community Reinvestment Act. In addition, Woodstock continues its analysis, policy development, and programs related to mortgage lending.

Background

HMDA, passed in 1975, is an integral part of Federal civil rights and fair lending laws, and its primary purpose was, and is, "to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. . . ."[5] That purpose is restated and implemented in Regulation C, which states it ". . . implements the Home Mortgage Disclosure Act, which is intended to provide the public with loan data. . . ."[6]

This comment emphasizes two aspects of HMDA. First and foremost, HMDA and Regulation C both intend the public to use the data that lenders report. Public use of HMDA data is not an afterthought; it is the primary purpose of the law and implementing regulation. Second, the public is supposed to be able to use HMDA data to determine whether lenders are serving the housing needs of their communities and neighborhoods. The specific addition of individual race and gender data in 1989 aligned HMDA even more tightly to Federal fair lending laws and allowed the public to identify possible lending discrimination based on race and gender. That added purpose aligns HMDA with the Equal Credit Opportunity Act (ECOA) and Fair Housing Act (FHAct), both of which specifically prohibit discrimination based on race, sex, or place of national origin, and shows that HMDA is a Federal civil rights laws. Over the years, as HMDA data and the means of making the data public evolved, community-based organizations, advocates, researchers, and fair housing groups have used the data to identify potential redlining and discrimination.

Between 2007 and 2016, when the Bureau adopted the first HMDA Rule, the Federal Financial Institutions Examination Council (FFIEC) managed the website through which the public could access HMDA data. That website supported public access to the data through a range of support documents and resources. The website contained the following structure:

- The main FFIEC HMDA site contained clear and separate sections and direct links to background information on HMDA, support for filers (those required to file HMDA data), and a separate "Public Data" section for public access to the HMDA data and support documents.[7]
- The resources for the public use of the data on this the FFIEC website included:[8]

[5] 12 USC 2801(b).
[6] 12 CFR 1003.1(b)(1).
[7] See https://www.ffiec.gov/hmda/default.htm.
[8] See https://www.ffiec.gov/hmda/hmdaproducts.htm.

A. A downloadable software program that allowed the user to select and download subsets of the HMDA data (i.e., filter the data) by geographic areas (states, metropolitan areas, counties, and even selected census tracts) and individual values of virtually every field of the applicant and loan data fields;
B. A "Help" section in the software that provided an extensive printable set of instructions complete with a table of contents that provided a manual on how to navigate and use the program;
C. A section in the software to view and print the essential support documents such as the format for the data, the individual codes for each field, a list of all the metropolitan areas and their codes, a list of all states and their codes, a list of all counties and their codes (which can be narrowed to each state), and utilities to download the lender "Transmittal Sheets" and "Reporter Panels" that provided such items as the names of the lender, the lender's ID code, the agency to which the lender reported HMDA, and information about parent companies and addresses of the lenders.
D. A separate direct link to downloading the full set of HMDA data for individual metropolitan areas along with key support documents for three current years; and,
E. Separate links to extensive sets of printable and downloadable preformatted tables from 1999 to 2016 that cross tabulated the data by a wide range of characteristics such as race, ethnicity, sex, applicant and tract income, loan type, purpose, loan costs, and tract location, etc.) that were especially useful for those without advanced analytical tools or resources to process the raw HMDA data:
    i. There were 51 "Aggregate" tables that cross tabulated the full set of HMDA data for each metropolitan area (MSA/MD);
    ii. There were 51 "Disclosure" tables that aggregated the data for each reporting lender for each metropolitan area; and,
    iii. There were 48 tables that aggregated the HMDA data for the entire nation.

The FFIEC website did have shortcomings. First, the downloaded raw HMDA data did not include a header to show what the variables were, and the data were not in the same order of columns as displayed on the website. Second, the data did not contain the name of the lender reporting the data, only the Respondent ID number and agency code. Third, there were no Aggregate (by geography) or Disclosure (by lender) tables by the percentage racial minority in the census tract.

The Importance of Public Access to HMDA Data

With the adoption of the first HMDA Rule, the Bureau assumed responsibility for providing the public with access to HMDA data. To its credit, the Bureau added many variables to the HMDA data, some that the Dodd-Frank Act required and others that the Bureau added on its own authority, and those variables could have provided the public with valuable information to further purposes of the act. Unfortunately, the Bureau's implementation of the HMDA Rule is sadly lacking in many respects, and the Bureau's failures substantially reduce or eliminate any benefits that the HMDA Rule might have provided. The Bureau has made the HMDA Rule almost totally ineffective because it has made it more difficult for the public to access the data to fulfill the purposes of the Act in "identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. . . ."[9]

[9] RFI, pages 28-29.

Giving the public easy access to HMDA data is crucial because the regulatory agencies overseeing lender compliance with Federal civil rights laws have largely abdicated their role. Multiple banks receiving Satisfactory or better ratings on Community Reinvestment Act examinations have been found to have violated fair lending laws when brought to court. The criteria for referring a bank to the Department of Justice for fair lending violations includes having the examiner identify a specific policy or practice that violates either ECOA or FHAct. That requirement ignores the fact that one of the standards of proof that will support a finding of a fair lending violation is disparate impact.

In one recent instance, Woodstock Institute analyzed HMDA data for a bank that had received an Outstanding rating on the lending test for its most recent Performance Evaluation, conducted in 2018. The data covered five counties in Illinois, all of which were part of the bank's assessment area, with a combined 17.4 percent Black population. Over a three-year period, from 2018 to 2020, the bank reported 1,784 applications and 1,344 originations. Of those, 38, or 2.1 percent, were from Black applicants, and 24 of the originations, 1.8 percent, were for Black borrowers. Of 246 census tracts in the five counties, 33, or 13.4 percent, had a majority Black population. Over three years, the bank received a total of 10 applications, 0.6 percent, from those majority Black census tracts and originated only two mortgages, 0.1 percent of the bank's originations, in those majority Black census tracts. The Performance Evaluation noted that "[t]he OCC has not identified that this institution has engaged in discriminatory or other illegal credit practices that require consideration in this evaluation."[10]

That bank is not unique. Repeatedly, advocacy groups and other public users have analyzed HMDA data to show constructive redlining, where a lender simply does not take applications or make originations in geographic areas with significant racial or ethnic minority populations, even after regulators have deemed the bank's performance Satisfactory and failed to find fair lending violations. That is why public access to the data is crucial. In the absence of enforcement by the regulatory agencies, the task falls to public users to expose violations, which is exactly what HMDA intended. That is why the Bureau's failure to implement the HMDA Rule in a way that makes public access easy defeats the primary purposes of HMDA and the Dodd-Frank Act.

Significant Shortcomings in how the Bureau Makes HMDA Data Available to the Public

With the planned release of the expanded data for 2018 and subsequent years, the Bureau had an opportunity to implement the HMDA Rule by developing a public disclosure process and website that would make the data as usable as possible for the widest range of interested public users. Doing so would have enabled the HMDA Rule to provide significant benefits consistent with the purposes of HMDA and the Dodd-Frank Act. Unfortunately, other than adding a header row to the data, the Bureau implemented the HMDA Rule in a way that generally makes the data harder for the public to access and use than before. That is, the way the Bureau implemented the HMDA Rule dramatically reduced the Rule's benefits and rendered it almost totally ineffective.

Rather than simply updating or replacing the FFIEC's HMDA website with one offering at least the same degree of functionality, the Bureau actually eliminated some essential functions and features that the FFIEC website offered, making the data harder for the public to access. It created two additional HMDA websites, replacing the single FFIEC website with a total of three separate sites. In doing so, the Bureau duplicated some HMDA data and resources and scattered others in the

[10] Community Reinvestment Act Performance Evaluation, dated November 13, 2018, page 11.

different sites.[11] The Bureau did not explain why it needed three separate sites or provide guidance on how to navigate them – and there are no direct links from one site to another.[12] In fact, none of the three sites the Bureau created even indicate that the other sites exist, and, unlike the FFIEC website, none have a user-friendly manual or set of resources to help people use the sites and enable the public to access the data.

That is not to say that the Bureau did not add new support resources. It did, but the Bureau designed those resources for IT professionals and software developers, not for public users. The new resources are in Application Programming Interface (API) and GitHub formats.[13] No doubt the people at the Bureau who created the new website are well-acquainted with those formats; the public users who are supposed to be the primary users of HMDA data, according to both the statute and implementing regulation, are not.

Not only are the new support resources in formats that are not useful to most of the public, the resources are not contained in a separate, easily accessible site. They are scattered across the three sites, mixed in with pages containing other essential resources for public users, and so the technical jargon and formats create confusion, intimidate those users, and deter them from even trying to access the data. In addition, the Bureau replaced many of the essential public user support documents provided in the FFIEC website – such as the HMDA field definitions, values, and codes – that users could download and print with documents that users could only view online; users could not download or print the documents.[14] Moreover, many of these support documents contain errors, including: 1) omitted fields; 2) omitted codes and values; 3) erroneous ranges, codes, and values for missing data; and 4) fields that do not exist.

One page on the FFIEC website, the "Public Data" page, provided direct access to all the support resources and forms for HMDA data through 2016. It contained a manual and help documents that users could download and print. The Public Data page also allowed the user to filter on the full set of loan and applicant fields, allowing public users to access and download smaller sets of data most relevant to them and not have to download data for an entire state or the nation as a whole. Being able to download a subset of the data was essential for allowing the public users to access the data because many of them rely on the most commonly available spreadsheet program, Excel, for their work. Excel has a limit of slightly over one million rows of data, which means that the data for larger states or lenders would be too big for those users to download and analyze. The ability to filter to smaller geographies allowed those users to download data that Excel could handle.

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[11] The FFIEC HMDA website is at https://www.ffiec.gov/hmda/default.htm. A joint FFIEC/CFPB HMDA Home website is at https://ffiec.cfpb.gov/. An internal CFPB HMDA Home site is at https://www.consumerfinance.gov/data-research/hmda/.

[12] There is one set of erroneous links on the FFIEC website that are defined as "CFPB Maps, Charts, and Custom Queries, 2007 – 2016" that sends you to one CFPB Home website though no such features exist on any site.

[13] API is a software intermediary that allows two applications to talk to each other. GitHub is a code hosting platform that allows one to work with others on projects. Users looking for "Complete documentation for the dataset including field number, data type, valid values, and examples" under a heading for "HMDA Supporting Documents", for example, will find a technical GitHub page (at https://github.com/cfpb/hmda-platform/blob/master/docs/v2/spec/Modified%20LAR%20Schema.csv) that shows a table embedded in technical links and procedures and that cannot be printed or downloaded.

[14] For example, the most critical document with the HMDA data fields and codes is a single column list that would be 28 pages if one could manage to print it, found at https://ffiec.cfpb.gov/documentation/2018/lar-data-fields/.

By comparison, the Bureau's version, the "Data Publication" page, is significantly less user-friendly and functional for public users. The new Data Publication page has six sections.[15] Two of the sections contain new versions of the HMDA data for 2018 and subsequent years that can only be downloaded at the full national level. This limitation means that the datasets those pages make available are too large to be used at all by those who depend on Excel. They are functionally useless as far as most public users are concerned.

A third section of the Data Publication page contains an early release with a limited number of fields for downloading the full national dataset for individual lenders. Datasets for smaller lenders are usually less than one million rows, which means that public users relying on Excel can download and analyze them. Datasets for the largest lenders that typically have the most impact on the market, however, frequently exceed the million-row limit, making them inaccessible to most public users. Even for smaller lenders, there is no MSA/MD field to help users extract local area data most relevant to them.

The other three sections on the Data Publication page are for the preformatted Aggregate (geography), Disclosure (lender), and National Aggregate tables. The page, however, offers no National Aggregate tables for 2018 and beyond. The Bureau eliminated 44 of the 51 Aggregate tables and 49 of the 51 Disclosure tables that were previously available on the FFIEC website. There are no Disclosure tables with any data on race, ethnicity, income, sex, or loan costs. As with so many other aspects of how the Bureau implemented the HMDA Rule, the Bureau has implemented the HMDA Rule in a way that offers less information than was previously available to the public.

The Bureau's Data Publication page does not contain a section for filtering the HMDA data, unlike the FFIEC website Public Data page. The part of the Bureau's new site that allows users to filter the data for 2018 and subsequent years by geography below the national level is the HMDA Data Filtering part of the HMDA Browser. This part of the site allows users to filter the data by individual lenders and the values of up to two of 12 predetermined fields. The FFIEC's site allowed users to filter on the full set of loan and applicant fields, not just two. Moreover, while the site allows users to create a table with a selected filter, the table can only be viewed online and cannot be printed or downloaded. Finally, as with the FFIEC website, the data that users can download does not contain the name of the lenders despite repeated requests for that information to be integrated into the HMDA data.

Although the Bureau's website allows some filtering by geographic area, that capability is less robust than the similar feature on the FFIEC website. The deficiency is particularly noticeable with one of the most commonly selected geographies, the MSA/MD level. Unlike the FFIEC's filtering feature, the Bureau's does not specify which counties might be included in the chosen MSA/MD. The lack of county names is especially concerning for the roughly ten percent of MSA/MDs that cross state lines. In addition, the available data do not include all MSA/MDs. For example, the MSA/MD data do not include Chicago,[16] the third largest metropolitan area in the country.

The Bureau did create a way to access the 2007 to 2017 HMDA data. Unfortunately, the Bureau's website allows users to download the data only at the state level. As with the data available for

[15] See https://ffiec.cfpb.gov/data-publication/.
[16] As of January 19, 2022.

download from the Data Publication pages, data for larger states often exceeds the row limitation for Excel, making the option to download functionally useless for many public users. For 2007 to 2016 data, the FFIEC website provides full support and allows filtering at sub-state levels, but the Bureau's website does not contain any reference to direct users to the FFIEC website.

Finally, the Bureau added a mapping site that includes a set of instructions on how to navigate that feature and allows users to print and download the tables and data. The new site is almost useless, however, because the single mapping measure available is the number of the selected HMDA records per 1,000 people in the area. That measure is utterly useless in analyzing mortgage lending.

Shortcomings in the Data Available under the HMDA Rule

To the extent that public users can actually access the data, they provide substantial benefits in furthering the purposes of HMDA and the Dodd-Frank Act. They would, however, be more beneficial if they were reliably accurate.

Woodstock Institute routinely downloads data for Illinois, State FIPS 17. The first step in preparing the data for analysis is to delete all loan records with a State FIPS other than 17 because, for some unknown reason, the Illinois data that the Bureau compiles for download contains records for loans in other states.

The next step in cleaning the data is to remove records with values that are clearly erroneous. For example, it seems highly unlikely that lenders are originating loans to applicants with negative income, and yet some of the records show just that. Similar issues exist in the property value data as well, negative or unreasonable low values. Putting value limits on data entry templates, disallowing entries that do not fall within specified ranges, is not complicated and would reduce the problem.

Another step in cleaning the data is to convert the number of units in multifamily properties to a consistent and useable format. The data for properties with five to twenty-four units is formatted in such a way that it downloads into Excel as May 24. That quirk means that the user has to replace the downloaded data value with one that is useable.

Other variables have inconsistent or missing values, such as whether the value is simply not reported (missing) or not required to be reported (exempt). Consistency across all variables would make the data easier for the public to use.

Potential Improvements to the HMDA Data

First, the data need to include the name of the lender, supervisor, and regulator. This issue has been raised repeatedly with the FFIEC for its site and in meetings with the Bureau before it even launched its website. The data are available and can be linked to the HMDA data by knowledgeable users with moderately advanced data analysis skills. Not including the information in the HMDA data available for download, therefore, does nothing to protect the lender's identity from disclosure; it just makes it a little harder for public users to do.

Second, the Bureau currently analyzes the data to create derived values. One value that would be a significant addition for users to know is the Annual Percentage Rate (APR). The APR would allow users to compare loans more easily to detect inconsistencies in terms than might indicate discrimination.

Third, the data should contain the actual number of units in multifamily buildings. The number of units is an important element of determining what percentage of units are affordable, one element of meeting the housing needs of the community. The current practice, providing only relatively inexact ranges, defeats that purpose.

Discussion and Recommendations

The RFI seeks input in order for the Bureau "to evaluate the effectiveness of the HMDA Rule in meeting its stated goals and the purposes and objectives of the Dodd-Frank Act."[17] The RFI further states that "[t]he Bureau welcomes comments from stakeholders, in particular information that would produce a more robust evaluation of the costs and benefits of the HMDA Rule."[18]

This comment addresses deficiencies in how the Bureau has implemented the HMDA Rule. Specifically, this comment looks at how the Bureau has chosen to make, or not make, data the HMDA Rule requires lenders to report available to public users and how that has negatively impacted the benefits of the HMDA Rule. What lenders have to do to report the data are the costs of the HMDA Rule. The principal benefit of the HMDA Rule is in what public users can do to determine "whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. . . ."[19]

The way the Bureau has implemented the HMDA Rule, through:

- its multiple websites that make finding the data more difficult for public users than with the FFIEC website;
- its focus on support resources for IT professionals and software programmers and lack of support resources for public users;
- its elimination of features, such as the ability to filter HMDA data on more than two variables, that allow users to focus on relevant data and download files they could analyze using Excel;
- its elimination of features, such as 44 of 51 Aggregate tables, available from the earlier FFIEC website that made it easier for public users to access HMDA data; and
- its limitations on the ability of users to download and print tables and support materials, such as "Help" guides or preformatted tables,

has dramatically reduced or eliminated much of the benefit which could have been derived from the new data. The Bureau's implementation of the HMDA Rule has significantly reduced the Rule's effectiveness at achieving its objectives.

Changing that situation, increasing the benefits of the HMDA Rule, will involve several actions, none of which add more than minimal compliance costs. The Bureau can increase the benefits of the HMDA Rule without asking lenders to report more data. All it needs to do is make the data more easily available to public users and provide appropriate support materials.

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[17] RFI, page 3.
[18] RFI, page 5.
[19] 12 USC 2801(b).

The following are some recommendations to facilitate public user access and increase the benefits of the HMDA Rule.

- Make a single HMDA site that has clear links to all the other sets of documents, resources, and data. Right now the Bureau has three main HMDA sites, with some overlap, but with different content, resources, and links to different sets of data.

- Separate out all the resources for IT people because these documents in GitHub and API formats are confusing, intimidating, and not useful for the general public. They discourage people from using the data.

- Provide key resource documents such as the HMDA field definitions and values, lists of MSA/MDs, counties, and other support documents in formats that are easy to download and print. Right now, many of the resources are in GitHub formats and have no options for printing or downloading. In addition, they have missing fields or incorrect values. The resource documents with data dictionaries for the various HMDA data formats should be provided in a single multi-page Excel document that could be downloaded with all the documents in one file.

- Provide a manual or set of instructions telling users how to navigate and use the different HMDA site(s).

- Add the lender names to the disclosed fields. Requiring users to find the documents with the names and lender codes (LEIs) and then match them serves no purpose other than to add complexity to analyzing the data.

- Provide the actual number of units in multifamily buildings. The claim that these commercial properties need privacy protections that outweigh the value of releasing the numbers is nonsense. The number of units in the building is a matter of public record. As with the name of the lender, all that not including the data does is make it harder for public users to do their analysis. Without releasing the actual numbers, the data on affordable units released as a percentage of the total units is not useful.

- Develop another derived field that combines the different loan cost fields into an estimate of the APR. This would be very helpful to the general public and avoids complex processing and analyzing of too many separate and sometimes conflicting cost data.

- Convert all the different codes and values used for missing data into a single set of numbers (positive or negative) that cuts across all the fields and that helps identify data missing due to the partial exemption or fields that are just blank.

- Add a field that indicates if the institution is a bank, a subsidiary mortgage company, an affiliate mortgage company, or an independent mortgage company. The Reporter Panel that institutions use when submitting their data already has the code, and it is available to the public in a separate file. This change would make it possible to separate out different types of lenders. Even more helpful would be if the CFPB provided directions, a function, or an

Excel macro for adding the name of the lender, the “other_lender_code” and the parent company to the end of the HMDA data fields.

- Restore or create full sets of preformatted tables. These are important for users that have limited skills and resources to process all the data themselves. The old FFIEC data had 51 such tables for each MSA/MD and essentially the same tables for each lender. The Bureau eliminated over 40 of the MSA/MD tables and all but two of the lender tables. None of the lender tables have any data on race, ethnicity, gender, income or the costs of the loans.

- Convene ongoing sessions with both experienced HMDA users and groups interested in using HMDA data to learn what they need and what forms of disclosure and support documents they find useful.

None of the recommendations add more than minimal compliance costs to lenders. They might have more records rejected as limitations on acceptable values for some variables caused entries to need to be redone. The added cost, however, is only what is required to do correctly the job they are supposed to do. All of the recommendations would make it easier for public users to access and analyze the data that the HMDA Rule requires lenders to report, increasing the benefits the Rule provides. They would make the HMDA Rule more effective at “meeting its stated goals and the purposes and objectives of the Dodd-Frank Act.”[20]

We appreciate the time and the attention required to make the HMDA Rule more effective. Thank you for the opportunity to comment on this important matter.

Sincerely,

Horacio F Mendez
President and Chief Executive Officer

[20] RFI, page 3.