INDEPENDENT COMMUNITY
BANKERS of AMERICA®

August 31, 2010

Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th St. and Constitution Ave, NW
Washington DC 20551
Attn: Docket No. OP-1388

Re: Home Mortgage Disclosure Act Regulation Hearings

Dear Sir or Madam:

The Federal Reserve Board is holding a series of public hearings to receive comments on regulations implementing the Home Mortgage Disclosure Act (HMDA). The Independent Community Bankers of America[1] (ICBA) appreciates the opportunity to provide written comment on potential revisions to the HMDA regulations.

HMDA requires banks to collect, report and disclose certain data about originations and purchases of home mortgage and home improvement loans, as well as loan applications that do not result in originations. Information reported include property location and type, amount of the loan, race, ethnicity, sex and annual income of the loan applicant and action taken on the loan application.

---

[1] The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an everchanging marketplace.

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold $1 trillion in assets, $800 billion in deposits, and $700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

Data Elements

As part of its review of these regulations, the Board is seeking to identify ways to improve the quality and usefulness of HMDA data and is considering whether any data elements should be added, modified or deleted. The Board is seeking comment on whether any additional data should be collected, such as information on factors used to make credit decisions and set loan prices.

HMDA regulations do not currently require underwriting data to be submitted for the mortgages that are originated such as the borrower's creditworthiness, loan-to-value ratios and debt-to-income ratios. However, the Federal Reserve Board is considering whether these data elements should be added, as some HMDA users may consider this additional information useful. In ICBA's view, the potentially limited utility of the additional information does not justify the increased compliance burden for community banks and privacy concerns. While the data provides limited information on the factors lenders may use to make credit decisions and set loan prices, it could provide skewed results, as credit and spending habits vary based upon different and distinct markets.

Additionally, banks would need to utilize their limited resources to collect and document the additional data. The regulatory compliance burdens that would develop as a result of collecting the additional information would most impact small community banks that complete the LAR manually. Bankers already collect and complete 24 line items on the LAR for every routine loan. This is coupled with the additional resources that would be required to train staff, interpret and make determinations on unclear regulations and check the data for accuracy before it is submitted.

Most community banks are facing serious regulatory challenges as additional requirements and restrictions are placed on them. Compliance officers, managers and bank professionals spend a significant number of hours complying with the many regulatory requirements necessary to provide information to regulators, document banking transactions and provide disclosures to customers. The amount of time and resources required to comprehend, train, and administer new regulatory requirements are overwhelming and, the escrow requirements recently enacted on higher priced mortgages significantly compounded the problem. Therefore, it is important to ensure that any additional HMDA regulatory requirements maintain a balanced approach that promotes the purposes of HMDA with the limited and already strained resources of community banks.

Privacy Concerns

For community banks that approve a limited number of HMDA reportable loans or provide financing in rural areas, adding the additional personal customer information, such as credit score and age, to the collected data creates significant privacy concerns. It is presently feasible, in areas of limited reportable loans, to identify a specific individual whose mortgage is being disclosed on a HMDA report when that information is appended with information that is publicly available.

HMDA reports include the name of the bank, mortgage amount, year of transaction, and census tract of the property. This information, together with certain public information such as the name of the bank, price and the year of the transaction, property address, and property owner's name could provide an opportunity to identify the majority of mortgagors being reported on HMDA data. Because there is little privacy protection in HMDA data, adding additional sensitive and non-public information, such as debt to income ratios, credit scores, creditworthiness, or age would create considerable privacy concerns.

HMDA Coverage and Compliance

Currently, HMDA regulations require depository institutions and for-profit mortgage lenders to submit HMDA data if they meet certain criteria. The Board is seeking comment on whether other types of institutions, such as mortgage brokers and non-lender loan purchasers should be required to report HMDA data.

HMDA data is designed to demonstrate whether the housing credit needs of a community are being served and to uncover possible discriminatory lending patterns. Obtaining HMDA data from only a subset of mortgage lenders that provide mortgage services to a specific segment of the market does not give regulators an accurate picture of mortgage lending patterns. Particularly if the providers of these services that are excluded have significant market share. Determining an accurate portrayal of the mortgage practices in a particular area or market would require HMDA reporting of mortgage brokers, non-lender loan purchasers and originators that meet the threshold criteria. Not only does this provide a consistent overview of the mortgage market, but ensures that discriminatory lending patterns are uncovered from any mortgage source.

As part of its review of the HMDA regulations, the Federal Reserve Board is seeking ways to clarify and simplify HMDA regulations in order to facilitate compliance. One of the general frustrations of reporting and reviewing HMDA data is the inconsistency with which information is collected and reported. It is important that regulatory requirements and guidance are clearly provided so as not to be confusing or misinterpreted, given the number of related, and in some instances, contrary regulatory requirements.

For example, when multiple properties are used to secure a loan, clarification on which property must be reported would be helpful. Additionally, guidance on examiner interpretation of certain provisions would provide consistency in the examination process. To illustrate, examiners have recently expressed a preference for community banks to use the same source of income verification for each loan, (prohibiting the use of tax returns on one loan application if the bank used W-2 forms on another). This makes the compliance and application process more difficult and burdensome.

Clarification in identifying census tract information in rural areas would also be beneficial. When reporting HMDA data, it is critical that banks use the correct census tract information. Using incorrect tract numbers will result in invalid data submissions when filing annual HMDA reports. However, locating the exact site of a property with rural routes and no distinct address makes it difficult to determine the precise census tract information. Clarification on how to identify these properties would be helpful. These examples illustrate areas in which clarification or guidance would be beneficial to complying with HMDA regulations.

Conclusion

Community bankers understand the significant contribution home ownership provides to their communities and are committed to serving the unique housing needs of their communities. Community bankers take great pride and satisfaction in providing affordable financing for the different demographic sectors in their communities. Before requiring any additional data to be collected and reported, the Federal Reserve Board should balance the benefits of this additional data collection with the limited resources available to community banks.

Additionally, requiring HMDA reporting of mortgage brokers, non-lender loan purchasers and originators that meet the threshold criteria will provide a consistent framework for mortgage financing and a more complete and accurate picture of the mortgage market. We look forward to working with the Federal Reserve on HMDA reform to provide meaningful and useful results without imposing unnecessary and additional burdens on the industry.

1615 L Street NW, Suite 900, Washington, DC 20036-5623 ■ (800)422-8439 ■ FAX: (202)659-1413 ■ Email: info@icba.org ■ Web site: www.icba.org

Thank you for the opportunity to provide information on the regulations implementing HMDA. If you have any questions or need additional information, please contact me at 202-659-8111 or at Lilly.Thomas@icba.org.

Sincerely,
/s/

Lilly Thomas
Vice President and Regulatory Counsel