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# United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
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WASHINGTON, DC 20510-6075

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October 16, 2019

The Honorable Kathleen Kraninger  
Director  
Consumer Financial Protection Bureau  
1700 G St. NW  
Washington, DC 20552

Dear Director Kraninger:

We write in response to the Consumer Financial Protection Bureau's (CFPB, or Bureau) Advance Notice of Proposed Rulemaking on Home Mortgage Disclosure Act (HMDA) Data Points and Coverage. We urge you to continue to collect all HMDA data points added in the CFPB's 2015 final rule, including the data points that are enumerated in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) and those added through the CFPB's discretionary authority.

As the CFPB has stated, HMDA data are "the most comprehensive source of publicly available information on the U.S. mortgage market."<sup>1</sup> Yet these critical data have not always been detailed enough to give individuals, regulators, market participants, or researchers the information they need. Since HMDA was enacted in 1975, Congress and regulators have repeatedly updated the HMDA statute and regulation to ensure that the data helps fulfill HMDA's stated purposes of determining whether financial institutions are serving the housing needs of their communities; assisting in distributing public-sector investment; and identifying possible discriminatory lending and enforcing antidiscrimination laws.<sup>2</sup>

To ensure HMDA could fulfill these critical purposes, the Federal Reserve added many of the data points the CFPB is now considering revising. Over a four-year long comment process, the Federal Reserve updated HMDA to include information on certain preapprovals, manufactured housing loans, certain loan pricing data, whether the loan is protected under the Home Ownership and Equity Protection Act (HOEPA), and lien status.<sup>3</sup> The Federal Reserve added further updates to loan pricing just a few years later.<sup>4</sup>

Even with these additional data points, HMDA data still failed to provide sufficient information to fulfill all of the law's objectives. In 2009, the Government Accountability Office (GAO) found that there were "several critical limitations in available HMDA data and other data that limit federal fair

<sup>1</sup> "Mortgage data (HMDA)," CFPB, available at <https://www.consumerfinance.gov/data-research/hmda/>.

<sup>2</sup> 12 CFR 1003.1

<sup>3</sup> "Home Mortgage Disclosure," 67 FR 7222, February 15, 2002, available at <https://www.govinfo.gov/content/pkg/FR-2002-02-15/pdf/02-3323.pdf>.

<sup>4</sup> "Home Mortgage Disclosure," 73 FR 63329, October 24, 2008, available at <https://www.govinfo.gov/content/pkg/FR-2008-10-24/pdf/E8-25320.pdf>.

lending oversight and enforcement efforts.”<sup>5</sup> Specifically, GAO found that the “lack of key mortgage loan underwriting variables, such as borrowers’ credit scores, borrowers’ debt-to-income, or the loan-to-value ratios of the mortgages, is a critical limitation of HMDA data.”<sup>6</sup> They concluded that “[r]equiring lenders to collect and publicly report key underwriting data as part of their annual HMDA data submissions would benefit regulatory and independent research efforts to identify discrimination in mortgage lending.”<sup>7</sup>

Congress expressly referenced the GAO report’s findings and the need for robust fair housing enforcement among the reasons for updating HMDA in the Dodd-Frank Act.<sup>8</sup> And when the CFPB, in 2015, published its final rule implementing these changes, it included additional data points that provide essential information to achieve Congress’s clear intent – to address the many ways that discrimination could appear in housing markets. Like the data points added in the Dodd-Frank Act, the data points the CFPB added in the 2015 final rule, including reasons for denial, origination charges, whether a manufactured home loan included land, and mortgage type flags, recognize the many ways that discrimination can manifest in our increasingly complex market. Each of these data points is critical to monitoring the mortgage market and rooting out discrimination.

CFPB’s 2015 final rule also recognized that serving the housing needs of communities goes beyond single-family housing needs. New data points on multifamily mortgages, including the number of units available and the number of income-restricted units, are increasingly important as families continue to struggle to find available and affordable rental units in all markets across the country. It is impossible to understand whether the needs of our communities are being met without data on the rental housing in those communities. The 2015 rule finally moved to close that data gap.

We are deeply troubled that the CFPB announced that it would reopen the 2015 HMDA rule before the new data points had even been collected.<sup>9</sup> We urge you to follow the intent of Congress and maintain collection of all data points added by the 2015 final rule. This data is critical to monitor market trends, credit access, and discrimination in our housing market.

Sincerely,



Sherrod Brown  
United States Senator

  
Jack Reed  
United States Senator

<sup>5</sup> “Fair Lending: Data Limitations and Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts,” Government Accountability Office, July 2009, available at <https://www.gao.gov/new.items/d09704.pdf>.

<sup>6</sup> Id at 18.


<sup>7</sup> Id at 20.


<sup>8</sup> “Report on the Activity of the Committee on Financial Services for the One Hundred Eleventh Congress,” House of Representatives, Report 111-702, available at <https://www.congress.gov/111/crpt/hrpt702/CRPT-111hrpt702.pdf>.


<sup>9</sup> “CFPB Issues Public Statement On Home Mortgage Disclosure Act Compliance,” December 21, 2017, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-public-statement-home-mortgage-disclosure-act-compliance/>.


  
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