

October 15, 2019

Hon. Kathleen Kraninger
Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

***Re: Home Mortgage Disclosure (Regulation C) Data Points and Coverage
Docket No. CFPB-2019-0020, RIN 3170-AA97***

Dear Director Kraninger:

The American Financial Services Association (AFSA)¹ appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) Advance Notice of Proposed Rulemaking (ANPR) soliciting comments on the data points required by the CFPB's October 2015 final rule implementing the Home Mortgage Disclosure Act (HMDA). AFSA's position is that the CFPB should reduce the number of data points financial institutions must collect and report.

AFSA members are committed to ensuring that all people have equal access to credit. As such, we support the spirit of HMDA and have invested heavily in compliance processes to ensure that the statute is fulfilled. Enacted in 1975, HMDA sought to determine if potentially discriminatory practices in the area of mortgage lending were occurring. HMDA data is intended to provide information to address fair-lending concerns about loan pricing and to gain a better understanding of the mortgage market. That goal was met for over thirty years and can continue to be met with fewer data points.

I. The CFPB should limit the number of required data points.

AFSA believes that the CFPB could more appropriately balance the benefits and burdens associated with HMDA data reporting by limiting the data points to those mandated by the Dodd-Frank Act. The Dodd-Frank Act added several new data points and gave the CFPB discretionary authority to require additional data points, which it did in its 2015 rulemaking. While data collection is a worthy method to formulate rulemaking, the burden on those regulated should be considered. At some point, data collection becomes overly burdensome, redundant, and unproductive for the stated goals of the Act. AFSA echoes the concerns expressed in the ANPR regarding the burden associated with reporting certain of the new or revised data points relative to the value of the information in serving HMDA's purpose.

¹ AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. Its more than 350 members include consumer and commercial finance companies, auto finance/leasing companies, mortgage lenders, mortgage servicers, credit card issuers, industrial banks and industry suppliers. Our membership ranges from some of the largest participants in the consumer financial services space to some of the smallest.

II. Increased regulation drives small lenders out of the market.

In the mid-2000s, many of AFSA's members originated home mortgages. As the regulatory burden increased following the passage of the Dodd-Frank Act, many of AFSA's members left the mortgage market. As of this time, only a very small percentage of our members still make mortgage loans, and we fear that that number will continue to dwindle.

A typical AFSA member originates real estate loans that are of short duration, usually maturing within five years, although some loans may mature between two and twenty years. The loans are also smaller in size, usually between \$5,000 and \$10,000, although some loans may be as high as \$50,000 or more. AFSA members originate loans to customers that depository institutions may not be able to service and fill a niche position in the industry. The loans are usually made for loan consolidation, sometimes for purchase or refinance, and are secured by primary residences, rental homes, second homes, raw land, and mobile homes (with or without land). AFSA members are located throughout the country, service urban and rural communities, and customers with varying levels of financial knowledge.

These institutions, many with no or only one in-house attorney, have spent the past several years working hard to come into compliance with many new regulations, such as the Truth in Lending Act / Real Estate Settlement Procedures Act integrated disclosure rule, the mortgage servicing rule, the ability to repay and qualified mortgage rule, the loan originator compensation rule, and the significant changes to the Home Ownership and Equity Protection Act-related rules. Rather than trying to keep up with costs of compliance, some small (and some not-so-small) non-depository institutions decided to exit the mortgage market altogether.

Many small non-depository institutions operate in small towns where credit options are limited. One lender deciding that it is not able to continue to offer mortgage loans could, therefore, have a large effect on a small community.

III. Increased data collection is costly, while providing little additional benefit and raising privacy concerns.

AFSA believes that collecting information on the new or revised data points has come at great expense, has had little additional benefit, and has raised serious privacy issues customers. For AFSA members, implementing these changes has been time-consuming and costly. Additional reporting requirements necessitate more computer programming and training, which in turn increases costs. It has become increasingly expensive to make real estate loans, particularly when attempting to address concerns of state regulators. At some point, the cost and expense will not justify making those loans, and lenders will stop making them. As pointed out above, this has already happened. Further costs will only lead more lenders to stop making real estate loans, to the detriment of consumers.

Financial institutions should not be required to collect or obtain information that they do not use in their lending operations, except to the extent the information is truly necessary to accomplish HMDA's purposes. HMDA data should be as helpful as reasonably possible, consistent with protecting the financial privacy of borrowers and loan applicants.

The simplification AFSA advocates will not, in any way, inhibit the CFPB's efforts to ensure fair lending. Academics and think tanks from all ideological perspectives regularly study the housing market, as do well-

recognized commercial research and consulting firms. Our recommendations will not harm the CFPB's data-driven mission and, by limiting data clutter, may sharpen its focus.

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For the foregoing reasons, AFSA believes that the CFPB should limit the data points it requires financial institutions to collect to those mandated by the Dodd-Frank Act. Including additional data points has only increased burdens on smaller mortgage lenders, without significant effect on the goal of HMDA. Please contact me by phone, 202-776-7300, or e-mail, cwinslow@afsamail.org, with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Celia Winslow".

Celia Winslow

Vice President, Legal & Regulatory Affairs
American Financial Services Association