



**National Association
of Federal Credit Unions**
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NAFCU | Your Direct Connection to Advocacy, Education & Compliance

January 11, 2016

Consumer Financial Protection Bureau
Attention: PRA Office
1700 G Street NW
Washington, D.C. 20552

RE: HMDA Information Collection: Request for Comment (OMB Control Number:
3170-0008)

Dear PRA Officer:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I am writing to you regarding the Consumer Financial Protection Bureau's (CFPB) request to renew the Office of Management and Budget (OMB) approval for the existing information collection, and to revise the information collection, titled, Home Mortgage Disclosure Act (HMDA). *See* 80 FR 69646 (November 10, 2015).

General Comments

As member-owned not-for-profit cooperatives, credit unions consistently strive to provide their members with financial products and services designed to help each member achieve their individual financial needs and goals. NAFCU and our members believe that the well-being of consumers begins with fair lending. As a result, we support HMDA's overall mission of promoting fair lending and ensuring that consumers receive access to credit in the housing market.

At the same time, NAFCU is concerned that the tidal wave of new regulations related to mortgage lending has significantly altered the market in unintended ways. In particular, the TILA-RESPA Integrated Disclosure (TRID) Rule has required credit unions of various sizes and complexities to make major investments, and incur significant expenses. The HMDA final rule will certainly require credit unions to rework their mortgage origination and servicing operations, once again setting off another round of system upgrades at great cost.

In addition, the information reported under the expanded data set contains sensitive information that, if released, would expose consumers to identification and other privacy concerns. NAFCU believes the Bureau should work to improve the HMDA data submission process, develop systems to protect sensitive information, and apply the privacy balancing test in a manner that ensures information is properly redacted or modified.

Expansion of Data Collection

The final rule added a significant number of new data points to the reporting requirements established in Regulation C, while modifying almost all the existing data points. While some of the data points were specifically mandated by the *Dodd–Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act), a substantial number of data points were added at the CFPB’s discretion. These discretionary data points have swelled the data set to roughly 38 total data points, which is more than double the current data set.

The finalized data set will impose significant regulatory and operational burden on credit unions. A 2014 NAFCU survey of our members found that credit unions will incur an average initial cost of \$9,591 to update systems with the Dodd-Frank required changes, and an ongoing average annual cost of \$3,842. To implement the additional data points beyond those mandated by Dodd-Frank, NAFCU’s members have indicated that they expect an average initial cost of \$13,955 to update systems and an ongoing average annual cost of \$4,842. A significant number of NAFCU’s members anticipate having to increase fees for consumers in order to offset the new costs associated with the additional HMDA reporting requirements.

Credit unions, like many small financial institutions, do not have the depth and breadth of staff resources and technology to reprogram their system in order to accommodate these discretionary data points without incurring significant costs. For credit unions that do not have automated collection systems, additions to the HMDA dataset will pose particularly significant implementation costs because the loan officer at these credit unions puts the required data points into a spreadsheet manually and it must be reviewed by another party. Even those credit unions that utilize automated systems often have staff manually review the collected data for accuracy before submission.

While NAFCU and our members support HMDA requirements that further the goal of ensuring fair lending, we remain concerned that the substantially expanded data set may not further this goal and will only serve to inflict additional compliance and reporting burdens.

Privacy

HMDA reports currently include the name of the credit union, mortgage amount, year of transaction, and census tract of the property. This information already provides an opportunity to identify the majority of mortgagors being reported under HMDA. Because there is little privacy protection in HMDA data, adding more sensitive and non-public information, such as debt-to-income ratios, credit scores, creditworthiness, or borrower age, has created substantial privacy

concerns. In particular, it is likely the additional reported data points can more easily be linked to individual applicants or borrowers.

The more-sensitive expanded HMDA data will be exposed to a number of areas of risk, especially during transmission, storage at the regulatory agencies, and at the point of public disclosure by regulatory agencies. Unauthorized access or inadvertent disclosure of HMDA data has the potential to substantially harm applicants and borrowers.

Beginning in 2018, reporting credit unions will no longer be required to provide a disclosure statement or a modified loan application register (LAR) to the public upon request. The final rule shifted the disclosure of HMDA data entirely to the Bureau. The final rule does not specify which data points will be redacted or modified to protect applicant or borrower privacy. Instead, the Bureau interprets HMDA to require that publicly released data be modified based on a balancing test. This balancing test would weigh the risk to privacy created by the release of the unmodified data against the benefits of such a release to the public. In applying the test, the Bureau will likely consider the benefit of disclosure, the risks to applicant and borrower privacy created by such a disclosure, and any options for data use and access restrictions.

The sensitivity of the additional data being collected under HMDA coupled with the Bureau's control over the disclosure of data to the public has resulted in the need for the CFPB to actively engage the industry as they move forward with the HMDA rule's implementation. The Bureau has already stated in the preamble to the final rule, and in the supporting statement for this information collection, that it will be gathering additional feedback on the use of the privacy balancing test to determine which HMDA data will be publicly disclosed, redacted, or modified. NAFCU and our member credit unions look forward to working with the Bureau to ensure consumers' privacy interest are protected and the balancing test is applied in a manner that ensures no sensitive information is released to the public.

Conclusion

As the CFPB has repeatedly acknowledged, credit unions have not engaged in the type of practices that the Bureau is seeking to identify through an expanded HMDA data set. However, the final rule's substantial increase in data points to be collected and reported to the Bureau is likely to add to the financial and regulatory burdens felt by credit unions as they attempt to comply with HMDA. Therefore, NAFCU and our members urge the Bureau to address the overwhelming compliance costs and regulatory difficulties faced by credits unions.

In addition, while the public should have access to enough data to provide meaningful information related to fair lending, NAFCU recommends that the Bureau adopt a balancing test that adequately protects privacy interests. Again, we look forward to continued discussion on the privacy implications of the HMDA final rule, in addition to a number of other issues.

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NAFCU appreciated the opportunity to share its thoughts on the HMDA information collection and would like to discuss this matter further. Should you have any questions or concerns, please feel free to contact me at amonterrubio@nafcu.org or (703) 842-2244.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alexander Monterrubio', with a long horizontal line extending to the right.

Alexander Monterrubio
Regulatory Affairs Counsel