

May 3, 2018

Oppose Section 104, “The Home Mortgage Disclosure Act Adjustment”

Dear Representative,

The undersigned civil rights, fair housing, consumer, and community organizations write to highlight our strong concerns with Section 104 of S. 2155, “the Home Mortgage Disclosure Act Adjustment and Study”. This section would undermine efforts to ensure that the nation’s mortgage lenders are serving all segments of the market fairly by exempting the vast majority of lenders from the updated reporting required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Public officials use this information in distributing public-sector investments so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns.

The Dodd-Frank Act’s Updated HMDA Reporting Reflects Lessons from the Financial Crisis

In response to widespread concerns about predatory lending and opacity in the mortgage market in the run-up to and following the financial crisis¹, Congress amended the Home Mortgage Disclosure Act (HMDA) to require both banks and non-bank lenders to disclose more information about their mortgage lending activities – updates finalized by the CFPB in 2015. Although not previously reported and disclosed through HMDA, these data points *are already* collected on a routine basis by banks, credit unions and for-profit mortgage companies in the normal course of business, either as a part of basic loan underwriting, for securitization or for other purposes required by law².

The CFPB Reduces the Reporting Burden on Small Lenders Without Sacrificing Data About Lending in Underserved Communities

After considering a number of higher reporting thresholds and receiving extensive feedback from all size and type of lending institutions, the CFPB adopted a standard that applies the new reporting requirements to institutions that made 25 closed-end mortgage loans or 100 open-end/home equity lines of credit (HELOCs). *Importantly*, in response to concerns raised by lenders and by some in Congress, the CFPB has already temporarily raised the reporting threshold for HELOCs to 500 through 2019, in order to further review the impact of the rule and what the permanent HELOC threshold should be. In adopting the HMDA thresholds, the agency balanced several Congressional interests – adopting a uniform and simplified reporting regime for banks and non-banks; eliminating the need for low-volume banks to report while maintaining sufficient data for analysis at the national, local, and institutional levels; and increasing visibility

¹See GAO, *Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts*, [GAO-09-704](#) (Washington, D.C.: July 15, 2009); and *Consumer*

² See Adam Levitin, Credit Slips Blog, “*New HMDA Regs Require Banks to Collect Lots of Data....That They Already Have*”. The data points the CFPB is requiring as a part of the final rule are basic information needed for loan underwriting, and in addition many are required for closing documents, included on the Uniform Residential Loan Application, required for Desktop Underwriter (Fannie Mae), Loan Prospector (Freddie Mac), or in order to obtain FHA insurance.

into the home mortgage lending practices of non-banks.

Section 104 upsets the careful balance: its proposed reporting thresholds - 500 closed end loans or 500 open-end lines - would exempt the vast majority of the nation's mortgage lenders from the updated requirements. Based on 2013 data, under the threshold set by the CFPB, 22 percent (1,400) of the depository institutions that currently report on their closed-end mortgages would be exempt. In contrast, if Section 104 is enacted, the agency estimates that 85 percent (5,400) of depositories and 48 percent of nondepositories (497) would not have to update reporting on their mortgages. This higher threshold would sacrifice key data about lending in underserved communities that would help to ensure the flow of credit to qualified borrowers, stimulate the economy, and prevent future mortgage crises.³

Tiered Reporting Sacrifices Critical Data Without Reducing Lender Burden

Section 104 proposes to adopt a tiered reporting approach, exempting some lenders from reporting the new data points pursuant to the Dodd-Frank Act only. This is purportedly a way to reduce burden. However, because the data points covered by the rule are already collected by lenders, the burden associated with the rule is minimal. Further, as with any data collection effort, the primary driver of HMDA costs is in establishing and maintaining systems to collect and report data, and *not the costs associated with collecting and reporting a particular data field*.⁴ Therefore, this approach sacrifices critical information without relieving much of the purported HMDA reporting burden on banks or non-banks.

Section 104 Would Undermine Fair Access to Mortgage Credit

HMDA was passed in 1975 to provide the necessary tools to dismantle uneven access to mortgage credit and expand equal lending opportunities for qualified borrowers, yet important segments of the market continue to lack fair access. For people of color, low- to moderate-income families, and borrowers in rural areas, access to mortgage credit remains tight⁵. While the numbers of loan originations have gone down for all borrowers, African Americans and Latinos have experienced the steepest declines.⁶ A Federal Reserve analysis of lending in rural areas has found higher denial rates in those communities since the housing crisis than in urban

³ Based on 2013 data, the CFPB estimates that updated reporting would be lost for 10 percent of loan records under a 500 closed-end loan volume threshold, and over 5,300 census tracts would lose 20 percent of the updated data about mortgage lending in their communities. The National Community Reinvestment Coalition (NCRC) estimated the loss of post-crisis data about loan originations by state and found states with large rural areas face some of the largest losses of updated data about mortgage originations. Additional data would be lost about loan applications and why denials are occurring. This map tool estimates the local impact on loan originations data: <http://maps.ncrc.org/s1310/index.html>. Section 104 of S. 2155 would mean that communities would also know less about loan applications and denials.

⁴ CFPB, HMDA Final Rule, Federal Register, Vol. 80, No. 208, p. 66282.

⁵ Center for Responsible Lending, *The Nation's Housing Finance System Remains Closed To African-American, Hispanic, And Low-Income Consumers Despite Stronger National Economic Recovery In 2015* (September 2016).

⁶ Urban Institute has published a number of studies on homeownership. For example, see: *Are gains in black homeownership history?* (February 14, 2017); *Increasing access to mortgages for minorities* (December 1, 2016);

areas.⁷ The new data would help explain and inform responses to these lending gaps. A new HMDA data point on the applicant's age is also vital information for evaluating age bias in lending, especially in conjunction with reverse mortgages.

The stark disparities in access to mortgage credit and the continued struggle for economic recovery in the communities hit hardest by the financial crisis call for a strengthening of our nation's fair lending laws, specifically HMDA, not a weakening of them. Quite simply, the updated HMDA data will provide critical information about whether similarly situated borrowers and underserved communities are receiving equitable access to mortgage credit, data that we lacked a decade ago when the crisis hit. This is not the time to limit the nation's ability to adequately assess the reasons for restricted credit access for underserved borrowers. Instead, we must increase efforts to address the causes behind the increased difficulty in accessing safe, affordable credit.

For these reasons and more, **we urge you to oppose Section 104 and any other efforts** to roll back the data collection and reporting as called for in Dodd-Frank and implemented by the CFPB. Should you have any questions or comments, please feel free to contact Gerron Levi at the National Community Reinvestment Coalition at (202) 464-2708.

Sincerely,

National Groups:

Americans For Financial Reform
Center for Responsible Lending
Consumer Action
Consumer Federation of America
Equal Rights Center
Grounded Solutions Network
Housing Choice Partners
The Leadership Conference on Civil and Human Rights
Morningstar Urban Development, Incorporated
NAACP
National Community Reinvestment Coalition
National Coalition for Asian Pacific American Community Development
People's Action
National Fair Housing Alliance
National Housing Law Project
National Organization of African Americans in Housing
National Urban League
Public Counsel
Rural Community Assistance Corporation
Take Charge America
UnidosUS (Formerly NCLR)

⁷ Todd M. Richards and Michael Williams, The Federal Reserve Bank of Minneapolis, *A new lending gap?* (April 28, 2017).

State/Local Groups

AL

Alabama Associations of Community Development Corporations
BENS Connects CDC
Birmingham Business Resource Center
Building Alabama Reinvestment
Central Alabama Fair Housing Center
Community Action Association of Alabama
Fair Housing Center of Northern Alabama
Hispanic Interest Coalition of Alabama
MLK Avenue Redevelopment Corporation
Neighborhood Concepts, Incorporated
Norwood Resource Center
Pathways
PHI
Titusville Development Corporation

AZ

Campeños Sin Fronteras
Southwest Fair Housing Council

CA

California Community Economic Development Association
California Reinvestment Coalition
Eden Council for Hope and Opportunity
Fair Housing Advocates of Northern California
Fair Housing Council of the San Fernando Valley
Fresno CDFI
Housing and Economic Rights Advocates
Housing Equality Law Project (HELP)
Housing Rights Center
Little Tokyo Service Center
Mutual Housing California
Neighborhood Partnership Housing Services Inc.
Oakland Community Land Trust
Peoples' Self-Help Housing
Project Sentinel Inc.
Rural Community Assistance Corporation
San Francisco Community Land Trust
The Greenlining Institute

CO

Community Resources & Housing Development Corporation
Denver Metro Fair Housing Center
Habitat for Humanity of Metro Denver
Servicios de la Raza

CT

Connecticut Fair Housing Center

DC

NAACP, DC Chapter

DE

Central Baptist Community Development Corporation
Delaware Community Reinvestment Action Council, Incorporated
Edgemoor Revitalization Cooperative, Incorporated
Richard Allen Coalition

FL

Affordable Homeownership Foundation
DebtHelper.com
Fair Housing Center of the Greater Palm Beaches
Hope for Housing, Incorporated
Housing Opportunities Project for Excellence, Incorporated
Trinity Empowerment Consortium

GA

D&E
Metro Fair Housing Services, Incorporated
National Housing Counseling Agency
Savannah-Chatham County Fair Housing Council

HI

Council for Native Hawaiian Advancement (CNHA)
Hawai'i Alliance for Community-Based Economic Development
Hawai'i Appleseed Center for Law & Economic Justice
Hawaiian Community Assets
Hawai'i Homeownership Center

IA

Scott County Housing Council

IL

Bernard Kleina Photography
Center for Changing Lives
Chicago Area Fair Housing Alliance
Chicago Community Loan Fund
Global Network CDC
HOPE Fair Housing Center
Housing Action Illinois
Oak Park Regional Housing Center
South Suburban Housing Center

The Resurrection Project
U2Cando
Universal Housing Solutions CDC
Woodstock Institute

IN

Catholic Charities, Diocese of Gary
City of East Chicago Department of Redevelopment
Community Investment Fund of Indiana
Northwest Indiana Reinvestment Alliance

LA

Cenla Community Action Committee, Incorporated
Greater New Orleans Fair Housing Action Center

MA

Alliance Of Cambridge Tenants
ESAC
Massachusetts Affordable Housing Alliance
Massachusetts Fair Housing Center

MD

Baltimore Neighborhoods, Incorporated
Housing Options & Planning Enterprises, Incorporated

MI

eHome America
Fair Housing Center of Metropolitan Detroit
Fair Housing Center of Southwest Michigan
Fair Housing Center of West Michigan
Financial Justice Coalition of Southeast Michigan
Michigan Community Reinvestment Coalition

MN

Asian Economic Development Association
Jewish Community Action

MO

BIG
Greater Kansas City Housing Information Center
Metropolitan St. Louis Equal Housing and Opportunity Council
National Association of Real Estate Brokers, Kansas City Missouri
R.A.A. – Ready, Aim, Advocate

MS

CFORM/Covenant Community Development Corporation

NC

Center for Responsible Lending
Durham Regional Financial Center

ND

North Dakota Economic Security and Prosperity Alliance

NJ

Fair Housing Council of Northern New Jersey
New Jersey Citizen Action
New Jersey Community Capital

NM

Southwest Neighborhood Housing Services

NY

Association for Neighborhood and Housing Development
Center for NYC Neighborhoods
CNY Fair Housing
Cypress Hills Local Development Corporation
Empire Justice Center
Fair Finance Watch
Long Island Housing Services, Incorporated
New Economy Project
PathStone Enterprise Center
Western New York Law Center

OH

Another Chance of Ohio
Business Research Group, University of Dayton
Central Ohio Fair Housing Association, Incorporated
City of Dayton Human Relations Council
City of Dayton, Ohio
City of South Euclid
Dayton Community Reinvestment Coalition
East End Community Services
Empowering and Strengthening Ohio's People
Fair Housing Advocates Association
Fair Housing Resource Center, Incorporated
Greater Dayton Minority Business Assistance Center
Home Repair Resource Center
HomeOwnership Center of Greater Dayton
Homes on the Hill, CDC
Miami Valley Fair Housing Center, Incorporated
Northeast Ohio Alliance for Hope (NOAH)
The Housing Center
Toledo Fair Housing Center

Wesley Community Center Dayton
Working In Neighborhoods
YWCA Dayton

OR

CASA of Oregon
Radix Consulting Group LLC

PA

Housing Equality Center of Pennsylvania
Integra Home Counseling, Incorporated
Pittsburgh Community Reinvestment Group

TN

Tennessee Fair Housing Council

TX

Divine Direction Incorporated Consulting
Greater Houston Fair Housing Center
Harlingen CDC
North Texas Fair Housing Center

VA

Housing Opportunities Made Equal of Virginia, Incorporated

WA

Northwest Fair Housing Alliance
Office of Rural and Farmworker Housing

WI

Community First, Incorporated
Housing Resources, Incorporated
Legal Aid Society of Milwaukee
Metropolitan Milwaukee Fair Housing
NAACP Milwaukee Branch
Thomas Building Consulting Corporation
United Community Center
Urban Economic Development Association of Wisconsin, Incorporated
YWCA Southeast Wisconsin