Home Mortgage Disclosure Act Public Hearing, August 5, 2010
San Francisco, California

Janet Yellen:
Good morning, everybody.

I want to welcome you to Federal Reserve Bank of San Francisco I'm Janet Yellen, President and CEO of the San Francisco Fed and it's our pleasure to host this hearing to collect public comments on possible changes to the Home Mortgage Disclosure Act. I want to thank everyone for coming.

Today's hearing offers us an opportunity to reflect on lessons learned from the recent turmoil in the mortgage market and to consider what it means for HMDA. An important part of this process is listening to board reviews. Public involvement is an important part of the rulemaking process, and we're grateful that such a distinguished group of panelists has agreed to participate today. I want to encourage all of you to share your views with us, either at today's hearing or by comments in writing. Your ideas will help us craft HMDA regulations that make the housing and mortgage markets more fair, open, and efficient.

I'd now like to present you my colleagues from the Division of Consumer and Community Affairs at the Federal Reserve Board, and I'll turn the program over to them. I'm very happy to introduce Sandra Braunstein, Division Director; Allen Fishbein, Assistant Director; and Jane Gell, Managing Counsel. They're presiding at today's hearing.

I'd also like to extend a special welcome to our colleagues serving on the Fed's Consumer Advisory Council, who are also presiding: Patricia Garcia Duarte, President and CEO of Neighborhood Housing Services of Phoenix; and Jim Park, CEO of New Vista Asset Management.

So let me now turn things over to Sandy and say that I hope this hearing is productive and satisfying for all of you. Thank you.

Sandra Braunstein:
Thank you very much, President Yellen, and we're very pleased to be here in San Francisco. And in case you didn't notice it when you walked in the door, this is the Janet Yellen Conference Center, so she needs no introduction. And I will say that San Francisco's loss is Washington's gain, because as you may know, President Yellen is slated, hopefully, to be the next Vice Chair of the Board of Governors, and those of us in Washington are really looking forward to working with her; some of us are working with her once again since she was in Washington before, and we are very much looking forward to that opportunity.

[Applause.]

Sandra Braunstein:
So, for today, on behalf of the Board of Governors of the Federal Reserve system, I'd like to welcome everybody to today's public hearing. I also want to express my appreciation to Joy

Hoffman and her staff and our other colleagues at the Federal Reserve Bank of San Francisco for hosting us today and making this possible. I'm pleased to be here as we continue the Board's public hearings under the Home Mortgage Disclosure Act, or HMDA, to assess the adequacies of the current mortgage data and examine the need for additional data.

Today's hearing is the second in a series of four hearings that we are hoping to explore possible changes to Regulation C which implements HMDA. I should point out first, though, that since we began planning these hearings, the world has changed a bit. Changes to HMDA data were included in the Regulatory Reform Bill that was recently signed into law. We look forward to comments regarding the implementation of those changes as well as other changes that our panelists and members of the public might recommend, based on their experience.

In addition, the new legislation will transfer the authority for HMDA rulemaking from the Board of Governors to the new Consumer Financial Protection Bureau. All the information that we glean through these hearings will inform our own rulemaking efforts for the time that we continue to have that rulemaking authority, and we will continue to have that up until the transfer date, which has not been set yet.

When that authority does transfer to the new bureau, please be assured that we will hand over all the information in our most current thinking about changes to Regulation C.

Over the course of these hearings, we will hear from the key players in the home mortgage market and other market participants, academics and researchers, consumer advocacy and community development organizations, data experts, regulators, and other public officials; although they play different roles, all share a common goal insuring that the mortgage market is responsible, transparent, efficient, and serves the needs of consumers and market participants alike.

Clearly, the recent mortgage crisis has highlighted the potential ramifications of a mortgage market that is not functioning well. Data do not create the market but they do help us understand what is happening in the market. In some cases, the lack of adequate and reliable data may have hindered the policymakers' ability to sufficient assess these market conditions and craft policy responses accordingly. While HMDA data alone cannot solve all the market problems, the time is certainly ripe for reviewing and revising the data elements, standards, and reporting frames.

HMDA has three purposes according to the law. One purpose is to provide the public and government officials with data that will help show whether lenders are serving the housing needs of the neighborhoods and communities in which they are located.

Our second purpose is to help government officials target public investment to promote private investment where it is needed. And our third purpose is to provide data to assist in identifying possible discriminatory lending practices and patterns and facilitate the enforcement of the anti-discrimination laws, such as the Equal Credit Opportunity Act.

Today's hearing is intended to serve as a venue to discuss whether or not the 2002 revisions to Regulation C provided useful and accurate information about the mortgage market, to gather

information that will help assess the need for additional data elements or improvements, and to identify emerging issues in the mortgage market that may require additional research.
As I said earlier, we are also interested in any comments on the implementation of the HMDA elements of the regulatory reform legislation.

We have gathered this morning a quite impressive array of panelists, representing a spectrum of vantage points. We look forward to their comments and also the comments of panelists and upcoming hearings in both Chicago and Washington, D.C. This, together with the written comments submitted from the public, will be carefully considered as we look at changes to Regulation C.
And with that, I want to just go over a few housekeeping notes.

First of all, I want to mention that this hearing will be part of a public record and that there will be transcripts from this, and all four of our hearings. We had one in Atlanta a couple weeks ago, and as I mentioned, we have two more coming after this one, one in Chicago and one in Washington.

Those transcripts will be made available. They will be posted to our website. I'm not sure that the Atlanta one's up yet, but it should be shortly. It is up?

Oh, okay. I'm sure that it is on our website. This one will follow shortly.

The panelists and other members of the public who are not going to speak today are very much encouraged to submit written comments, and the instructions for how to send us those written comments are on the Board's website, so please check that out.

Each panelist will be given the opportunity for a five-minute opening statement, and we do have a timekeeper to let you know if you're going over, because we want to make sure everybody gets a chance to speak, and then we want to give our panel a chance to ask questions.

So the timekeeper -- Maggie -- could you please raise your hand? While you're speaking, please keep an eye on Maggie, she'll give you warning signs and tell you that your five minutes are up, and if you don't pay attention to that, then I'll intervene, which you don't want. So.....

Okay. Thank you.

We're going to have two panels this morning. We have one now. We have one following at 10:30. Then we will have an open-mike session. And for people who are interested in the open mike-session, if you have not done so, please sign up. And is that out in the hallway? Okay. Please sign up for the open-mic session if you're interested in speaking.

So the panels are 90 minutes each and we're going to start the panel.

The first thing I want to do is introduce our panelists this morning. So, first, we have to my immediate right -- that's interesting, on my right instead of my left. To my immediate right is Orson Aguilar from the Greenlining Institute. We have John Courson from the Mortgage

Bankers Association. We have Claudia Monterrosa, who's from the Los Angeles Housing Department; David Moskowitz, from Wells Fargo; Garry Seligson from Chase Home Lending; and Kevin Stein from the California Reinvestment Coalition.

With that, we can start the opening comments.

Orson, would you like to go ahead?

Orson Aguilar:
Thank you very much, Sandy, and I'll make sure my comments are also to the right of you this morning.

First, on behalf of the Greenlining Institute, I just really want to thank the Federal Reserve for your leadership on this issue and thank you for asking for Greenlining Institute's participation. And I wanted to congratulate, once again, our own Janet Yellen, who's been nominated to be the Vice Chairman of the Federal Reserve Board.

As I speak, you know, it's no secret. We're experiencing the biggest loss of wealth for people of color, and this is driven by the loss of homes and home equity. According to a recent study by the Center for Responsible Lending, $350 billion of wealth has been stripped away from communities of color.

Greenlining estimates that by the time this foreclosure wave is over, we might perhaps double that number, and that could even be a conservative system.

For every 100 African-American homeowners, 11 have either lost their homes or are at risk of losing their homes. If you look at Latinos, it's worse: 17 out of every 100 homeowners are touched by foreclosure. And again, this is data from the Center for Responsible Lending.

We also know that we have data for certain Asian groups -- Hmongs, Cambodians, Laotians. We would find similar data and, unfortunately, we haven't been able to disaggregate the data, despite years and years of advocacy on that issue.

So given the crisis that we are facing – and I understand that a lot of what we're doing today is to give recommendations for the bureau -- is really encouraged the Fed to act now. We really can't wait for transfer data.

So some of my recommendations are going to be on an act-now basis on powers that I believe that the Fed has today. So let me start with that.

The first recommendation that Greenlining has is to immediately obtain and release HMDA data for the first half of 2010 and for all of 2009. One of the things that we have seen is that the pendulum has swung way too far. Too many individuals and families that should be provided the opportunity to purchase a home are being denied this opportunity. In the neighborhood where I live in Oakland, most of the homes that are being sold at very affordable rates are being sold to investors, and that's not helping the community at all.

So it doesn't make sense that, you know, we have all time -- you know, some pretty historical low home prices, historical interest rates, yet we can't put people in those homes. We need to fix that. And we believe that if we can get some HMDA data now, rather than waiting a year or two years, we can really try to uncover some artificial barriers that we think are there, such as FICO scores or other barriers we can start to work on now.

Our second recommendation is to release information on underwater mortgages by race and ethnicity. We know that California leads the nation with the number of underwater mortgages, and we know that by looking at some data in terms of lending, that communities of color are disproportionately under water.

If you look at subprime lending at its height and also tie that to the housing boom and the housing peak, you see that communities of colors were receiving -- you know, were increasingly getting loans in 2006 and 2007, even when this lending was dropping for others.

Greenlining is going to submit a report to the Federal Reserve within a week called "Good Enough for Subprime but Not Good Enough for Prime" that shows this trend. It's a very scary trend. We really need to look at it.

We know the Federal Reserve -- the Federal Reserve economist, Gene Sand -- recently said, "Being under water is like being a renter." Some say that being severely under water is actually worse than being a renter.

And we know that the bigger victims of this crash were seniors, especially seniors of color, who have lost their equity and have basically lost their savings net for retirement. This is a huge issue, and we hope that the Fed can release this data soon.

The third recommendation is to disaggregate the Asian data. In California, in the nation, there are currently 15 million Americans; about a third of those Asian Americans live in California. And we know, based on data for other issues where we do disaggregate the data, that it is a very diverse community.

And just to summarize that point, I don't believe many Asian leaders in San Francisco or in California really see HMDA as an empowering tool for them. In fact, it really provides no service to them, and we really need to fix that, and hopefully we can do that soon.

My last two recommendations are, make HMDA matter more for the Community Reinvestment Act. Greenlining, over the years, has issued a HMDA report demonstrating that -- just 30 seconds – that oftentimes, even if a bank provides little to no lending to African-Americans or Latinos, you can still get above satisfactory or outstanding.

Lastly, we sign on to CRC's letter for additional data requirement, and so, we support all of that as well. So thank you very much. I'm happy to take any questions when the panel is over.

[Applause.]

John Courson:
Thank you, Director Braunstein, and state officials. I appreciate the opportunity to be here. I can tell you that, you know, I've been around the mortgage business over 50 years. And you know it's been too long when the last time I was in this room was testifying at a HMDA hearing in 2002, so this is Groundhog Day for me.

At MBA we have long supported the transparency in the mortgage process, the original purposes of HMDA. And while, obviously, this transparency is central to HMDA's purposes and the efficient operation of the mortgage market itself, the requirements for additional HMDA data obviously do not come without their own costs. It's our members, day to day, who collect this data. It's our members and customers who are most affected by the changes to these requirements that ultimately bear any increased financial and other costs.

HMDA data requirements have not been static. As I just mentioned, they obviously expanded in early 2000 with the collection of loan pricing. And now we know, as the Director mentioned, that the Dodd-Frank Wall Street Consumer Protection Act has a long list of HMDA data requirements which will ultimately be implemented by the new Consumer Financial Protection Bureau. These, of course, include a long list of data to be included, which are total points and fees, rate spreads for all loans, credit scores, and many other items.

We're concerned that the process of implementing these changes are obviously going to be a challenge for government, a challenge for the industry, and a challenge for the consumers. So further additions to these elements by regulation could really unnecessarily increase the regulatory burden and potentially compromise the privacy of borrowers. Let me just talk about, if I may, the following principles that should guide any consideration of additions to HMDA.

The first is, protection of individual privacy must be of paramount concern. Dodd-Frank requires the collection and reporting of credit scores and, as the CFPB may determine appropriate, parcel identification numbers, and other loan data directly dealing with the individual data from consumers. We are very concerned about the need for privacy and, as great a concern, the need for identity theft, which we know is out there in very sophisticated forms.

While we believe that the credit score information explains many differences in denials in loan pricing, it should be reported to regulators and disseminated in a useful form. It could certainly require borrowers to publicly disclose this kind of data on a loan-level basis.

A second principle is, careful consideration should be given whether to require -- whether additional requirements are necessary, considering the new Dodd-Frank requirements in the legislation. The changes to the HMDA data requirements in Dodd-Frank are among the numerous rules that will be promulgated by the CFPB. So we want to make sure that the Asian data requirements should not be duplicative of the data that's required in Dodd-Frank and become unduly burdensome.

Also, the Dodd-Frank prohibits certain loan features, such as YSP, the development of underwriting criteria for safe harbors, and other terms, such as “no-doc" and "low-doc." And so, some of the proposed changes, by regulation, may well be dealt with through the regulation and rulemaking that's coming out of Dodd-Frank and prove additional regulation for that regulation is unnecessary.
The third principle would be an effort to include essentially all factors that may be considered by lenders in the origination may be unnecessary. The data set within the Dodd-Frank changes include abundant data relevant to determining additional fair lending investigations may be warranted. Considering the uniqueness of underwriting determinations, final determinations still require materials and loan files. I would be happy to talk about that in questions and answers in more detail.
The last is -- the fourth data is data fields should not be added in a piecemeal manner unnecessarily. As I've said a couple of times, the Dodd-Frank has a robust list of items that will be included within the HMDA data and, at the same time we're dealing with that, to try to, in addition, deal with additional data sets that might be coming forth through regulation, will be very difficult for government, will be very difficult for the industry to try to deal with coping with two sets of data and implemented at different times.

I certainly appreciate the opportunity to testify. I know we'll have a robust question-and-answer session, and I look forward to that opportunity. Thank you

Claudia Monterrosa:
Good morning, Director Braunstein, members of the Consumer Advisory Council, and Federal Reserve Bank staff members. My name is Claudia Monterrosa and I am the Director of the City of Los Angeles Housing Department's Policy & Planning Unit. The LAHD is charged with the development of citywide housing policy and supporting safe and livable neighborhoods through the promotion, development, and preservation of decent, affordable housing. In my capacity, I have witnessed firsthand the beginning of the foreclosure epidemic in the city.
I want to discuss how Los Angeles began to track the foreclosure crisis, how we used HMDA data in the beginning of this process as well as discuss HMDA's shortcomings; and then how the city continues to track foreclosures, implement local measures to prevent the deterioration of its more impacted neighborhoods and search for the best data resources to better direct the implementation of federal and state funding.

In 2007, the LAHD engaged in a concentrated effort to help assist the foreclosure problem through the collection of data and using mapping tools to help identify the hardest hit areas in the city. To help launch this effort, the LAHD convened a data committee consisting of industry academics and experts. Through this committee, the LAHD evaluated HMDA data as well as proprietary data from RealtyTrac, DataQuick, and RealQuest.

With the assistance of the Federal Reserve Bank, the LAHD utilized HMDA data to map loan originations that were high-cost. The HMDA data was useful in that it illustrated the beginnings of the mortgage crisis in the city by showing a swift, increasing pattern of concentration of high-cost loans from 2004 to '05 and '06. These maps also reviewed the concentration of high-cost loans, which were located in the low- and moderate-income areas of the city. Ultimately, these maps foreshadowed the imminent arrival of the foreclosure crisis in neighborhoods where a predominance of Latinos and African-Americans lived. That HMDA data, however, cannot still provide the actual number of defaults or foreclosures.

In 2008, it became critical for us to know where, and to identify the number of defaults and foreclosures. Through the purchase of DataQuick foreclosure data at the address level, we were able to identify the number of foreclosures by Council District by neighborhood, by any number of geographies. Coincidently, when the areas of the high-cost loans were compared to the concentration of foreclosure activity in the city, they covered the majority of the geographic areas experiences a high volume of foreclosures. The HMDA high-cost loan data was able to showcase areas of the concentrated activity for high-cost loans; however, it was the activity -- foreclosure data activity at the address level – that determined the degree of foreclosure crisis in the City.

Since we began to track foreclosures in the city, from January '07 through March of this year, a total of 40,383 housing units and 31,198 single and multifamily housing properties have been foreclosed upon in the city. And in the last quarter 3,463 units were foreclosed in Los Angeles. This is a 19 percent decrease from the quarter of '09; however, this represents an increase of 353 percent since the LAHD began tracking foreclosures in the same quarter.

HMDA data has some critical limitations. It only tracks loan origination at the Census-tract level. We are interested in finding and getting information at the address level. As recently as this May, we were contemplating creating a specific profile of data for homeownership and homeowners at risk of foreclosure. This clearinghouse would have included the collection of complete data, but we decided to focus these precious dollars over services. The recent passage of the Dodd-Frank bill will enable us to see this information at that citywide level instead of having limited information from the very select counseling service priors.

We urge the Federal Reserve Bank and the newly established bureau of Consumer Financial Protection to work as expeditiously as possible to implement the recently authorized changes. We're definitely interested in continuing to work with the Federal Reserve and see how we can provide input on that.

Thank you very much, and I welcome comments.

David Moskowitz:
Good morning, Director Braunstein, members of the Consumer Advisory Council and staff. My name is David Moskowitz. I'm Deputy General Counsel of Wells Fargo and Company and, I'm responsible for consumer real estate lending activities.

Wells Fargo is a leading originator of residential mortgage loans and lines of credit and one of the nation's leading financial services companies committed to mortgage lending that helps customers achieve financial success with fair and responsible lending standards, and to offering its customers appropriate products at appropriate prices. It commends the Federal Reserve Board for periodically reviewing Regulation C to ensure it continues to remain relevant given the changes to the law and in the mortgage market.

Today there are two major components to any discussion of HMDA and HMDA data. The first is how to improve the existing collection of information so that a more complete picture of mortgage lending can be created. Wells Fargo has a number of comments relating to the existing requirements of HMDA and the nature of the information that is currently collected. The second and far more important discussion involves the new requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Wells Fargo believes that including important appropriate

missing risk factors in HMDA will help explain the nature of mortgage lending decisions and result in greater transparency, which will ultimately be to the benefit of both consumers and lenders.

As HMDA reporting is currently constructed, lenders are left to explain that the reasons for most lending decisions are embedded in the missing risk factors, none of which are currently made public. In the case of Wells Fargo, for example, virtually all transactions terms and lending decisions can be explained by several established risk factors such as credit score, debt-to-income ratio, and loan-to-value ratio. But without this risk information, external parties such as consumer groups, academics, and advocacy groups have either speculated on the missing risk factors or worse, responded as if these risk factors were not relevant to lending decisions. We have also seen examples of studies that attempt to proxy risk factors, sometimes using information like presumed income to identify discriminatory patterns in lending.

Lenders and statisticians recognize that data, such as income amount, are not part of the transaction decision-making process and do not predict the risk performance of a loan. Lenders instead rely on established risk factors that have been determined to accurately predict the likelihood of default such as the ones I previously mentioned, and items such as the existence of a prior bankruptcy, foreclosure or previous mortgage and late payments. The absence of these predictive risk factors from HMDA has not resulted in an enhanced level of public understanding of lending decisions.

Most of these risk factors cannot be proxied in an academic study and can only properly be evaluated through a review of loan-level predictive risk data or, to be comprehensive, a review of the actual story contained in every individual loan file. Wells Fargo believes that the inclusion of appropriate risk factors in the HMDA data will help suppress some of the speculative assumptions that have impacted the decision of HMDA data. Visibility into the true risk factors and recognition of some of the borrowing and spending patterns of American consumers will lead to more constructive understanding of mortgage lending.

As we discuss and debate the nature of the new risk factors to be included in the new HMDA, the key will be to assure that reporting of new information does not accidentally divulge to the public personal financial information of individual consumers. In addition, the new data fields must be precisely defined to avoid a scenario where different HMDA reporters are using different definitions, which will result in an inability to consistently compare data across HMDA reports.

And, finally, the new fields must bear a meaningful relationship to lending decision making -- other than as required by law and in furtherance of the goal of identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes. There is no point in including in HMDA data fields that are not actually used by lenders in making transaction decisions. Data that are not logically related to a lending decision do not serve to upgrade the nature of HMDA analysis or the related dialogue about fair lending.

Wells Fargo supports controlled transparency in mortgage lending and looks forward to active discussions with all parties regarding HMDA. Our goal is not to obscure the nature of lending decisions, but instead, to enlighten the public about those decisions.

Enlightenment will be a substantial improvement over today's data-free and speculative conclusions about lending decisions.

We urge the Board to consider first the additional data that will be specifically required as a result of the Consumer Protection Act and what additional data requirements are needed to provide transparency about the basis of lending decisions. Let's not just collect additional data because we can. Rather, let's identify the data that are needed to achieve the purpose of the act, and demonstrate that responsible lenders are achieving the goal of fair and responsible lending. I look forward to answering any questions from the panel.

Female Voice:
Thank you.

Garry Seligson:
Thank you. Good morning. My name is Garry Seligson. I'm a Senior Vice President and Associate General Counsel for Chase Home Lending.

Chase Home Lending is one of the largest originators of residential mortgage loans in the United States and made approximately 270,000 mortgage loans in 2009. Chase appreciates the opportunity to testify today concerning the Federal Reserve Board's review of its Regulation C, which implements the HMDA requirements. Chase also appreciates that the Board is soliciting the views of industry members, advocacy groups, and other interest groups prior to issuing any proposed rules. Chase has long supported the original purposes of HMDA and welcomes the opportunity to address each of the items for which the Board has requested comments.

As described in greater detail in our written testimony, while we believe there may some benefits to additional HMDA reporting requirements, we have serious concerns about consumer financial privacy that some of the proposals raise. Importantly, the recently enacted Dodd-Frank Act more than doubles the number of reportable data elements previously required by HMDA, and we believe that the industry should be given the opportunity to make the operational changes necessary to capture and report the newly required Dodd-Frank data elements before adding any additional data elements. In addition, reporting institutions should be given sufficient time to revise their forms, train their staff, make the necessary system and programming changes, and do whatever else is required in order to comply with the changes in reporting requirements in Dodd-Frank. Our experience has been that a change of this magnitude requires an implementation time frame of at least 18 months. Providing an extended time frame for implementation would be consistent taken with the approach that was taken with the 2004 amendments to Regulation C, which were far less extensive than the amendments in Dodd-Frank.

Moreover, mortgage originators will be implementing the new data elements at the same time that they are implementing numerous other regulatory changes that would flow from Dodd-Frank. A number of the changes contemplated by Dodd-Frank, or that may considered by the

Board, additionally may require extensive industry coordination -- for example, Universal Loan Identifier -- and implementation should be delayed sufficiently to enable that coordination.

Dodd-Frank also requires numerous changes to the loan underwriting and origination process and will require significant additional monitoring to ensure compliance with the new requirements. We expect the mortgage market to undergo significant changes as a result of both the new panoply of legal requirements, as well as other financial market changes.

In light of these many developments, it makes sense to give lenders the time they need to make all these changes, understand what questions data users are trying to answer, and then evaluate the need for additional data elements. A significant amount of information about mortgage applicants will be made available as a result of the new data elements. Even without name and Social Security numbers, the presence of elements such as loan amount and census track enables the curious or unscrupulous to search public records and identify individuals. Moreover, the changes to the SEC's regulation will cause substantial loan-level information to be provided to investors. The availability of age, credit score, and income or even, potentially, other data that consumers consider private, means a financial picture of a given individual can be put together fairly readily.

We believe that many consumers will be rightly concerned that extensive information about them is accessible. The risk of identity theft will also be increased. To minimize the privacy risk, the Board should consider limiting the number of data elements that are made available to the public. Doing so would enable the Board and other federal regulators to analyze the data without making it available to potentially unscrupulous individuals. Care should be taken in determining which data elements to make public to avoid distortion of information; for example, publication of race and rate spread, without important factors, such as FICO and LPB, would likely result in a distorted picture.

Chase supports using average prime offer rates as a benchmark against which APR should be compared because it puts pricing information in the appropriate market context. Comparing mortgage rates to Treasury Securities, for example, does not accurately reflect liquidity, quality, and risk issues.

With regard to purchase loans, clarification is needed on reportable data elements for purchase loans. Many of the newly required data elements are not readily available for purchase loans. The information provided by sellers to buyers needs to be extended significantly.

If a decision is made to require the collection of data elements for purchase loans, we recommend that this be delayed till there has been significant, sufficient opportunity to implement the changes contemplated by Dodd-Frank in the Board's Regulation C for loan originators. Mortgage extensions and consolidations that are a functional equivalent of loan refinancing, and are structured to such in states such as New York or Texas, should be viewed more functionally and reported as refinancing. Doing so would more accurately depict mortgage-lending behavior and mortgage flows. Modifications made for other reasons, such as to correct an error or in settlement of a dispute, should not be reported. HMDA and Regulation C do not address data quality -- time is over? Okay. If I can just finish this last thought —

Sandra Braunstein:
All right, if you can in four seconds. We can also get to your additional –

Kevin Stein:
Thank you. Good morning. My name is Kevin Stein. I'm the Associate Director of the California Reinvestment Coalition. I want to thank you for the opportunity to participate in this hearing.

I should say I fully expected to support and endorse a number of the comments made by the Greenlining Institute, especially around the impact of foreclosure on wealth in our communities, and the L.A. Housing Department, in terms of the importance of the data for helping direct local housing policy. I did not expect that I would also want to endorse some of the comments made by Mr. Moskowitz of Wells Fargo, and I think in essence, we are saying the thing, at least as to some of his comments, that to really effectuate the purposes of HMDA, we need more data, and that currently is not the case. I guess I should add that I don't believe -- we don't believe that industry's past positions and practices are really consistent with the position you're putting forth today, but we welcome it. And maybe there's some room for consensus and optimism to actually think that HMDA will move in a good direction that will benefit the public and communities for which it really was designed.

So, putting aside those comments, I'll just make my prepared remarks.

So CRC is a coalition of 280 community groups and public agencies working to improve access to credit for low- and moderate-income neighborhoods and neighborhoods of color in California. And one of the ways we have tried to do this is, by using the HMDA data, we have issued a number of reports and analyses for the public and for local governments, using the data.

We believe the HMDA data have been helpful in shedding light on mortgage-lending patterns and promoting responsive lending, but HMDA regulations really have not kept pace with industry practices. HMDA limitations require that a broader lack of adequate transparency and accountability regarding bank lending practices. This insufficiency of transparency, oversight, and regulation enabled the foreclosure crisis that has had such a huge and devastating impact on our families and communities, in California in particular, which is disproportionally impacted by not only the bad lending the last few years, but now the foreclosures and the inability to see sustainable loan modifications. But the comments I'm making reflect the collective thinking of several California groups, and we will be submitting written comments that will further detail our collections. And today, we have 60 civil rights and community groups in the state who have endorsed the positions that were articulated today. I also would note that it's a HMDA hearing inside the Federal Reserve, and yet there's a very strong interest in this discussion that we're having today, and we expect a lot of people will be showing up during the course of the day to express their views and to highlight the importance of the issues that we're talking about today, especially in this context of foreclosure and economic impact.

The main point I'd like to make is that the data is not really serving the purposes for which it was designed. And Sandy pointed out that the goals of HMDA are to help identify discrimination,

help local governments or public officials direct investment, and once again to see if institutions are meeting local housing needs. For the most part, that really is not occurring. And for that reason, we're calling on the Fed and the CFPB to update the data now, but also to see that, as it is, which is an ongoing obligation to ensure that the regulation from the data that's being required to be reported meet those three goals.

For years, the lenders -- maybe today will be different -- but the lenders have complained that the HMDA data are too limited. Well, I guess we do agree on that. And they're too limited to draw any meaningful conclusions, but at the same time, they have continued to oppose the very data elements that we're talking about today.

I'd be curious to look at the transcript from 2002, and see how many of the industry folks opposed the things that are in Dodd-Frank and the things that we're talking about today. More distressing to us, in some sense, is that the Fed itself has dismissed the value of the HMDA data by highlighting the very limitations it has had the power to address and overcome.

And just as one example, searching the Fed website for an order approving of the bank merger, the first one I found -- this was a quote from the orders. Quote: "The Board recognizes, however, that HMDA data alone provided incomplete measure of an institution's lending in its community because these data cover only a few categories of housing-related lending. HMDA data, moreover, provides only limited information about the covered loans. HMDA data, therefore, have limitations that make them an inadequate basis absent other information for concluding that an institution has not assisted adequately in meeting its community's credit needs or has engaged in illegal lending discrimination."

Well, these are the very purposes of HMDA. In other words, the Fed has failed update the data requirements, keep ahead of industry practices, and ensure that the act serves its purposes. And we hope that the CFPB will be better in this regard.

To that end, we have a number of recommendations, but we're urging five key changes. Namely, that HMDA – if it's all right, I'll just quickly mention them, thank you -- require the collection and public reporting of all loan modifications applications, denials, and modification terms broken out by race, ethnicity, gender and age of applicants, and census track. This is the key housing traction of the day. We have no information about that and no meaningful numbers.

Number two, require the disclosure of all Home Equity Lines of Credit and the purpose for which the HELOC was sought, including whether the HELOC was intended to support a small business.

Number three, require data regarding certain race categories, such as the Asian race group, and include data about languages spoken by loan applicants and loan modification applicants, especially the language in which these transactions are negotiated.

Number four, require reporting on reverse mortgages, age-of-loan applications, applicants, whether reverse mortgage was sold with an annuity, and whether a new loan is being used to refinance a senior out of an existing reverse mortgage.

And five, require detailed reporting on multi-family lending that notes whether the loan was a construction loan or permanent loan, and whether the housing units for which the loan was sought will be restricted for affordable housing.

We support all the changes proposed in Dodd-Frank. We want all that data at the low level made publicly available, and we would hope that the CFPB would provide transparency around not only the HMDA and make it available more quickly, but also, around what the bank regulators do with that information when it shows itself to be problematic. Thank you.

Sandra Braunstein:
Okay. Thank you to our panelists

[Applause]

For your remarks, and we're going to start the questioning process. I'm going to ask just a few opening questions. I'm going to ask each of my fellow panelists ask a couple -- we'll just be doing rounds, so you'll be able to get to all of them. And I would also ask the participants to try, as much as possible, to keep their answers as brief as possible, only so we can cover more ground since time is limited.

Just for an opening question to kind of get the discussion started, so HMDA's been around since, you know, the late '70s. And I'd like to know, are there particular things about HMDA that we absolutely should not change that have been very successful? And also, are there things that are in HMDA that maybe are of limited use, where we're adding a lot of new things, both by statute, as well as what we're considering adding independently, but are there things that are currently in HMDA that really, maybe because they're dated now, or for other reasons, are of limited use where we actually could take something out of HMDA when we're adding useful data in?

So I'll start down at the other end.

Kevin, do you want to start?

Kevin Stein:
Sure, I'll try to answer quickly on the second -- I would be hesitant to say -- I agree with the idea that data shouldn't be collected just for the sake of having data, that it should serve the purpose.

I would not be -- I would not identify any existing data elements that I think are not helpful, so I don't think I'll be of much help there.

In terms of what has been good in general terms about HMDA is the fact that it is publicly available and that it is excess -- it is, for the most part, what I would call the loan level, so there is concern that some of the -- in dealing with the new data elements, there will be an attempt to aggregate data, which will make it less transparent, and also, that maybe all the information won't be available to the public, and so that be would be a concern.

And in terms of implementation, I think the timing in which the data is released, if there was a way the data could be made available to the public more quickly, like maybe on a quarterly basis instead of -- you know, you have loans that you see about a year and a half, two years after they have been originated, and then the application's taken, and then the issue of enforcement, where there's not really a sense that -- you know, we have seen questionable HMDA data reporting, and we don't know that anything comes of that, and we don't know -- in terms of, actually, the data integrity, but also, that the data suggests there might be an issue of discrimination. We don't have all the information. What do the regulators do with that? Sometimes we hear that things are referred to the DOJ, and other times, we hear nothing.

So that would be my response.

Garry Seligson:
I would say three things.

One, that I agree the reporting of the data is definitely to establish transparency for financial institutions around origination practices, and this has been useful for financial institution regulators, you know, advocacy groups, and other interest groups.

Second, it has alerted regulators and enforcement authorities of potential concerns about lending by certain lenders, and is resulting in enforcement actions as a result.

And, third, one of the things which sort of goes unnoticed, I think, is that in light of the HMDA data, the fact that it is publicly available, it is transparent, it has caused lenders to create a whole fair-lending infrastructure, which includes, you know, fair-lending communities and second-level reviews, and the review of credit-policy changes with regard to what potential fair-lending impact they might have, foreclosure reviews, before someone goes into foreclosure, making sure that all loan modifications or loss-mitigation options have been explored, and also the regression analyses. And just a culture of fair lending that it's not only extended to originations, but also, trips over into servicing and into default management on loans, and is even extended beyond the mortgage-lending area, and goes into credit cards and auto lending.

So, I think that, you know, that's important to point out. In terms of what Kevin is talking about, in terms of the timeliness of this, I mean, it would be great if we could get this information out quickly. The problem we have, and the point that I was going to make before I ran out of time, was that there's no -- there's nothing in HMDA -- nothing expressed about tolerance levels. The regulators have given us sort of a benchmark, if you will: 5 percent for critical fields, 10 percent for noncritical fields, but when you're off by, let's say, a day with regard to a point with regard to FICO score, when that -- you know, when that becomes reportable, that counts as an error. And it's very hard to, you know, scrub loan files to make sure that we're providing accurate data. And I don't think -- you know, I mean, it's difficult enough to do it on an annual basis, but to do it on a quarterly basis and ensure its accuracy would be a big undertaking, especially now, since we're doubling the number of data points that we're reporting.

David Moskowitz:

Okay. I'm going to sound like a broken record today, probably, in response to almost every question, because I'm going to wind up agreeing with Kevin and the rest of the panel here on some things that are probably relatively new for the public to hear about the way a bank thinks about the HMDA data.

So the things I wouldn't change about HMDA -- I wouldn't change some of the integrity that the process has developed over the years. I mean, we have the establishment of these deadlines for collecting information, inserting into a LAR, and providing it to the public, and then analysis that occurs with respect to the LARs.

I think that the one thing I wouldn't change in the existing HMDA is the concern that exists of the scrubbed-out information that identifies individual customers, individual consumers. The one thing that Dodd-Frank does -- and I know that all of us would probably agree, you know, we all crave information -- is that it will be very easy to identify you, you as an individual person -- your credit score, the amount of equity you have in your home, where you live. All of that information will be very simple to figure out if it was just transmitted from the lender to the database to the public.

So we are paranoid about that, at Wells Fargo for sure, because we are concerned about the nature of the privacy of our customers. Having said that, we want the information to be understood in a proper way, and we have some ideas about how to categorize and do bans of information and roll out information that in ways that would be useful.

The other thing I think I would -- I would think about HMDA we would and should change, it's always been optional to report HELOCs. It’s been, you know, there's categories of information like home improvement loan purposes. I think allowing discretion in individual lenders on that has resulted in most lenders electing not to provide it, and as a result, an incomplete picture about what's going on.

The one mystery we've created, with respect to what's going on in a loan for a person, the more speculation that has created. We feel good. To Garry's point about the infrastructure that's created internally to look at this? We feel good about the professionalism of credit risk decision making. We think the world should understand that.

And then the focus on what really needs to be done in terms of discriminatory lending is how do you address lenders who have no responsible lending practices and really do take advantage of people, and not focus on lenders that we're just guessing about?

So I would level the playing field and focus on the protection of consumer identity and information, and keep the basic infrastructure of time tables alive. We could certainly debate how quickly it becomes available. I do think it should be actionable. I do also believe -- last point -- that what goes on between a bank and its regulators is frequently confidential.

Sometimes something goes into the regulator box and doesn't emerge because they find exactly what is going on with respect to the risk factors, and that may end additional inquiry. So the mystery might be answered by the same risk factors that we're talking about.

Claudia Monterrosa:
I would have to concur with my colleagues here, and the only thing that I would emphasize is the timeliness of the data. Perhaps the Board can identify those critical points that can be reported on a quarterly or semiannual basis, such as number of defaults, foreclosures, age, or some of the new data elements that have been implemented as to the Dodd-Frank bill, and to disaggregate some of that data. That would be helpful for us to utilize that, and not to purchase some of this information.

So perhaps there's something that can be done from the point of the borrowers. I think that's the critical thing, and I think there's ways we can, and that you can work that out. So those are my comments.

John Courson:
So I guess, quickly, Director, my comment would be that I think I would term what we have today in the existing kind of -- sort of the skeleton in the Dodd-Frank now, we're going to put some meat on those bones, I guess, and I agree with my colleague. That's a good thing.

I would say that, having used that as a foundation, however, that as you start to talk about things of more quarterly or different reporting times, a couple of issues.

One, as Mr. Seligman has said, is the tolerance issue. It's hard to imagine, having been an independent mortgage banker for years, the work that goes in to making sure that the data integrity is correct based on the tolerances.

And albeit our association has members from the largest of the large to the small, independent originator, all of us now who are HMDA reporters, and to accumulate that data to get -- in many cases, using third parties to assist us -- many of our members don't have resources to do that -- really puts some pressure on us in terms of timeliness.

Orson Aguilar:
I don't have much to add. I agree with what a lot of the group has said.

Sandra Braunstein:
All right. Allen?

Allen Fishbein:
Thank you, Sandy, and good morning to the panel and to the audience. Thank you for coming today. I wanted to pursue this -- if there is a point of consensus about certain data items. Certainly, it seemed that a number of you from the industry and advocacy side have noted limitations in the HMDA database right now, particularly right now with respect to risk factors. The Dodd-Frank bill, obviously, addresses some of these in particular on information about credit scoring, but it doesn't address other risk factors that factor into decision making.

And so, what I'd like you to address, and just to drill down a little further, it seems like there's a common understanding that debt-to-income ratio, loan-to-value, perhaps consolidated loan-to-

value, are important indicators ultimately in decision making that help explain HMDA data and help explain some disparities that may exist. And I'd like to have the views from each of you. Perhaps we could start with the people from the industry side, and then advocates are free to join in.

John Courson:
I guess, Mr. Fishbein, I would go back. We obviously, with the Dodd-Frank bill, are really now going to see an incredibly robust process of rulemaking that's going to define the credit box. Again, that particular piece of legislation, I think -- to use the element that I've used -- is, in fact, the skeleton. It is a foundation upon which now we're going to see rulemaking that's going to identify the credit box in many respects.

One of those, in fact, probably will be a debt-to-income ratio, and that's why when I talked about the fact that this robust list of reportable items for HMDA that are in that legislation -- I think we need to deal with those before we start putting other regulatory reportable data in. Let's see what comes out of the rulemaking. Let's see how debt-to-income ratio is defined.

In many cases, the way the legislation is set up, virtually by definition, the no-doc loans, if you will, will be a thing of the past, and we'll see that encapsulated in rulemaking. And so, I think the concern is to try to craft -- and prior to the issuance of the rules under the Dodd-Frank -- trying to craft a criteria, what we might find is that there will be a conflict. We'll have different definitions. We'll have different sets of the standards.

And what we need is one set of consistent, reportable, very closely identified set of standards that then the industry can go out and work with, as opposed to confusion about the report -- in fact, I would go back and say, it will be interesting to see how FICOs are going to be identified; you know, it's sort of like a Hobson's choice. If you come out and you say, "We're going to use -- the requirement will be to use this FICO score," that may well be a FICO score that's not used by either Wells, Chase, or other lenders. So they'll be reporting something that they may internally not be using.

Then you go to the other side of that Hobson's choice and say, "Report the FICO scores you use." That could be very inconsistent because of the difference of FICO scores.

So those are the kinds of things we have to deal with through rulemaking as we start to deal with making sure the information we have is credible.

Allen Fishbein:
Anyone else?

By the way, I probably bifurcated things a little too much, because we have the City of Los Angeles represented here as well, so maybe users and providers of data -- distinction between the panels.

David Moskowitz:
Can I? Would you like me to -- an industry person or --

Allen Fishbein: Yeah, no, go. Well --

David Moskowitz:
Okay. So we have a new statutory skeleton, and it has a number of efforts in it to capture the bigger picture, a more transparent picture about what would tell the full story about the loan. Some of them, I think, are useless, but they're statutorily required, and we do what we're asked to do.

Some of them are going to require the new bureau's input because they are -- they put at risk people's identity. So, for example, the parcel number, that's required by law -- I mean, that's you. That's your house. That's where you live. That's your credit score. That's how much money you have. It's everything. And I don't know, there's not much we can do other than to focus on the key words in the statute, which are as the bureau may determine to be appropriate.

So I hope that in discussions with the bureau and through the Fed as the months ahead unwind, that we'll have discussions about those exact issues that John mentioned, about how this can be provided in an appropriate manner -- obviously, I agree -- in a consistent manner so that it's meaningful and that the world can reach conclusions about what is meaningful about what's going on.

And the other key provision in the statute is such other information as the bureau may require. That's basically everything and anything. And I think that's an important one. I think that's where I'm going to hopefully focus my thoughts not just this morning, but in the months ahead. And some of these risk factors that actually are important in describing what happens in the outcome of a particular loan transaction, and there are well-established, a dozen or so risk factors, that explain almost everything. Only three of them are in the statute.

So I think that that's where the focus of the both the Board and the bureau should be, on how to properly collect the things that we have no choice but to collect because it's law, and how to protect the identity of consumers where the appropriateness of that collection is in the hands of the bureau, and then those missing pieces, we can discuss. That will complete the picture. Without that, we'll wind up in actually a worse place than we are now, which is speculation with the presumption that we collected everything, which is worse than what we have now, which is speculation, knowing that we don't have enough. So it's better to speculate having everything.

Garry Seligson:
I agree very much with what John and David have said. Just focusing on DTI, I think that was probably the bigger one of all of the new data elements. One, there is -- as John pointed out, there is this new ability to pay test in Dodd-Frank. So, hopefully, DTI will be addressed in the underwriting of loans.

Two, DTI, generally, is not an element in pricing. Obviously, it goes to the affordability issue of whether someone can afford the loan, and could be important, but the DTI data -- the complicated thing for us is that DTI includes determining income, determining your debt load, and there's a question of whether we're talking front end or back end, whatever.

But with regard to just determining income, we would have -- we would need detailed guidance in terms of how to do that, because right now, you know, there's a fair amount of subjectivity that goes into determinations.

For example, if someone is, you know, relying on overtime income or commissions or bonuses, and how much certainty do you supply or assign to that particular factor, and it may differ. You know, we can do it ourselves, because we have our own, you know, set of what we think is a reasonable determination, but being consistent across all the various lenders is another matter, and I think that is something to just keep in mind. And as John said also, no-doc, low-doc loans, I think those are gotten by the boards by virtue of the availability to pay tests. So, you know, I would just make those points about DTI.

Allen Fishbein:
But do you think that front end -- both the front end and back end DTI would be necessary to collect to go that route?

Garry Seligson:
I would probably say the back end is more important, because it's overall debt obligations, although HAMP, obviously, only focuses on the front end.

And I think there are some -- you know, of course, they do require accounts of a certain percentage of the back end, but that is going to complicate things, too, because how far do you go in gathering all the debt obligations that someone has? Do you just get it from a credit bureau report, relying on an application? And how do you assign -- how much of that debt obligation, if it's, you know, due within nine months, do you discount it or, you know, you also only consider the minimum monthly payment obligation? It can get very tricky, and has caused issues on the downside, too.

The income calculation has been very – has been, you know, a difficult issue for servicers to implement. So I just, you know, would ask your indulgence on that particular point and give it some serious thought.

John Courson:
I agree with Garry. And just briefly, if I may? Going to the -- I agree with that, that gives a full picture, but it also brings in incredible difficulty in defining what the back end is and to define that in a way that every -- remember now, every originator and HMDA reporter will have to calculate – to make it meaningful – will have to calculate all those items that are utilized to calculate the back end, and that will be a herculean task to do it, but -- so it comes with benefits -- in giving the full picture, it comes with probably the element of greater inconsistency, perhaps meaningful consistency, if we do that.

David Moskowitz:
Can I just add one thing?

Allen Fishbein:

Although, could I just add something? All of you are collecting that data currently, right?

David Moskowitz: That's what I was going to say. We have -- obviously, a lender has a bucket of debts that it calculates in making those underwriting decisions. So I think that the debate will be in the rulemaking, and the devil is in the details, there are probably some ideas for making this simpler and useable that would be more fruitful and less complex, something like, "Yes or no, was the request for the debt information over 40 percent?" I think that's the back end of information, over 40 percent. And that may be could help explain loans where there is a higher debt load from loans where there was a tolerable debt loan or, I'm sure, our ideas, too.

But I'm sympathetic to the concept that this is all going to be very hard. There is going to be lots of definitions and data questions. Let's just presume that, for me at least, in answer to all your questions, let's assume we'll do it, but that the difficulty will be in making sure that those precise definitions are out there and executed.

I don't want to tell you, five times today, that it's going to be hard. I'd rather have useable definitions that the industry and the public can gravitate towards first.

I probably used up all my allocated time here, but I just wanted to give anybody on the panel a chance to respond.

Orson Aguilar:
There's something -- it's not a direct response to the question, but I think it's important to, obviously, HMDA move forward. And for Greenlining, the goal is always more homeownership, not necessarily using HMDA to add discrimination.

What really worries me is where my colleagues said is, you know, we do need information so we can figure out how do we work with community development organizations? How does the analysis of all this data help us put more people in homes?

But if the information that we gather all of a sudden becomes more of a vehicle to create a credit box because folks are so worried about discrimination, I think that would have really harmful effects, and getting institutions to create more artificial barriers, and get other institutions, such as Wells Fargo, that might be more creative, to not enter another creative mechanism that are proven to work.

So that's just a caveat that I think something we're really worried about is kind of creating this credit box as we engage in rulemaking. We really hope that doesn't happen.

Kevin Stein:
I think that's a good point, and we're sensitive to -- we would be sensitive to that, and at the same time, we are very concerned about discrimination in the mortgage market, which we believe exists, and we believe -- and I think we all should agree -- that HMDA is defined to help ferret out, and it hasn't done a good job of that.

We've come out with studies. There are complaints filed against institutions. Looking at HMDA data, the institutions have said, "We don't have all of the underwriting criteria."

So in answer to the question, I think the question, should we include all of the key underwriting criteria? Of course. That's the only way in which HMDA data means anything so that no one has to waste time wondering if there's discrimination occurring at an institution when there may be good reasons or, you know, at least based on traditional underwriting criteria, and we can look to other policy solutions.

So we think the more information that's available, the more we'll get at discrimination, but also serve the other purposes of helping to direct resources and making sure institutions are meeting community credit needs. The situation we have now, it's ridiculous. It's kind of a waste of everybody's time. We get the same response from the industry as we get from the regulators. The data is what we have, and in a way, we're complaining about the data, and we see the limitations, but we recognize it's among the most detailed information the public has about what banks are doing. And we try and use it and say, "This is all we have. This is the picture we see. This is the picture that's being painted."

And then to have the response be, "Well, it doesn't have enough information for us to draw any conclusions." It's really making a mockery of the statute.

So we would say, "Yes include everything," especially certainly anything that goes into an institution's decision-making process. That should be made publicly available. We're concerned about the confidentiality, privacy issues. We think there are ways to deal with them, including around the parcel tax, parcel I.D. issue that was raised. And, again, just for us, discrimination – you know, we kind of keep coming back to one of the more public displays of some of these issues was when a number of institutions were sued by the attorney general of New York.

We had a preemption issue where the regulators stepped in and stopped that kind of fair-lending investigation, which was, we think, a reprehensible act, but for one institution that wasn't federally chartered, the investigation proceeded. The complaint was based on HMDA data, and the response from all the institutions was, "Well, you don't know -- we have good reasons that can explain all these disparities. You just don't see it in the HMDA data."

And through the attorney general's investigation, what we took from that is, he was able, then, through that process to get the information. They settled that case. But I believe at the time of the settlement he said, "You know what? We saw all that information, and it explained some of the disparities. It did not explain all of disparities," and one of the largest institutions at that time.

So these are serious issues.

We need more data, and we need for the regulators to kind of step up; underwriting criteria, definitely.

There's also the issue of, you know, do we have enough in terms of the terms of the loans, and so that not only do we know how decisions were made, but were these good loans or were these kind of bad loans, so that we can kind of further our analysis.

[Applause.]

Jane Gell:
I'd like to continue this discussion and follow up on John and others' comments about the need for clear standards.

HMDA only works if we have uniform and consistent data, so it really all turns on the definitions, and several of you have mentioned two products where there have been some concerns that either there is not -- or that the definition needs to be revised to pull in more products, and those are HELOCs.

And I think, Garry, you mentioned that most lenders don't report them. That's been our experience. And if they do report them, they just report the amount for the time the lot is opened.

So that really hasn't given us very much. So that's something that's on the table to change.

And the other one -- and, Kevin, you, I think, have touched on this -- is the definition of refinancing, which has the odd effect of states like Texas and some others -- New York -- of not covering transactions that are really functional of refinancing.

And in addition to that, there's the issue of loan modifications and lack of very much good data on those. The time we really need it.

So I'd like you all to address those two products, HELOCs and refinancing, and give us your views on how we might improve those definitions.

Kevin?

Kevin Stein:
And I'll try and be quick.

The HELOC is a big issue for us. Our constituency and membership included housing counselors that are working with people suffering at risk of foreclosure, and also economic development groups and technical assistance providers working with small businesses. And they're both reporting a big increase in the number of small business owners who are at risk of foreclosure because of HELOC that they have taken out to support their small business, which is a common scenario that people would take money out of their homes to support their small business but not, I think, as new a dynamic. And I think it's kind of off the radar screen because we don't have any data.

So we would strongly urge that HELOC reporting, for a number of reasons, be mandated, that it's not optional anymore.

And that just as with -- you can -- we can identify the purpose for which a home -- you know, home loan currently reported on HMDA data was taken out, we should extend that to HELOC so people can identify if it's for a small business so we can have some more information, especially at this time, because what we're really talking about are people who are not only at risk of losing their home, they're at risk of losing their business, and they're at risk of having to lay off employees.

So it seems like at a time where we're trying to keep people in their homes, trying to encourage job creation, or at least maintenance of jobs, this issue is really important, and it's so hard to direct.

In fact, our foreclosure-prevention policies don't really speak to this issue, I think, right? So we need more information about that, about that dynamic.

And also, you know, we know that HELOCs have less protection under TILA, also something the Fed has something to do about. And so, it's a more -- it's potentially a more problematic product because consumers have less protection.

And so, therefore, it is, I think, a stronger argument that HELOCs would be -- we would have more information about HELOCs. And for us, probably our number one issue coming in, is we think loan-modification data should be part of HMDA. We need HMDA for loan modification.

People know that there's some data coming out through Treasury; it's woefully, it's inadequate on many levels. If you line that up with -- you know, with Treasury reports about the HAMP program only, versus what HMDA requires for loans, I think the statute speaks to transactions that HMDA is about. And the Fed's duty is to look at housing transactions that affect the housing market. We think loan modifications clearly fit within that. It is the housing data need of the day.

And I should also say, we are concerned. We think the fair-lending issue of the day in this little niche is, we're concerned that people of color are getting the worse outcomes in foreclosure prevention, in the loan modification, loss-mitigation efforts. That's new. That's disturbing.

We do a survey of housing counseling agencies that suggests they're seeing similar things. They're seeing different outcomes. We don't know exactly why, because we don't have information, right? But we're seeing that people of color not only were more likely to get bad loans, were more likely to go into foreclosure, less likely to get modifications, or get good modifications. That's something that we really need more data on. We hope Treasury would release data that it's collecting. We're not holding our breath for that. We think this is the perfect vehicle, HMDA, to look at loan-modification data.

Claudia Monterrosa: If I may?

[Applause.]

Claudia Monterrosa:
I agree with Kevin.

Actually, I want to go a little bit deeper into that. The federal government has made many more funding available for the hardest hit in need of foreclosure counseling. And the only way that we're going to be able to identify the area will be through the access of this type of data HELOC loan modification; in fact, that's what we're looking at, collecting information from the counseling service providers and legal service priors.

Even though that was going to be on a limited basis, we would have had had at our fingertips complete information about the borrower, from the beginning to the end, and what's going on in the whole foreclosure process; what are the banks doing to prevent or provide loan modifications or loan refinancing? And, unfortunately, we do not have that information. We were going to pay for that, but we decided that that's not going to give us a good picture.

In addition, we want to know what's going on with people of color in our city. What is going on with the predatory lending practices? Why are they targeting, for instance, in South Los Angeles, African-Americans that have been living very stable lives; all of a sudden, they have second mortgages or reverse mortgages. We want to know what's going on in that regard and how we can better serve them and also direct policy to prevent that from happening, and also to see what's going on in the other areas of the city.

And so, I definitely urge the Federal Reserve to really implement the requirement to report loan-modification data and HELOCs and see what the -- how these -- how these loans were made, how were they targeted to these particular areas.

Garry Seligson:
There was a lot there, obviously.

First, on the definition of refinancing, I absolutely agree, and it was a point I made in the opening statement; otherwise, it leads to the sort of odd conclusion that there are no loan refinancing in New York, which is actually a Mecca. So we would agree that that should be reported.

On the HELOCs, it's sort of a unique issue, and I can understand what Kevin is saying, but, you know, with HELOCs, you have -- people obtained them for a variety of purposes; sometimes, you know, as a set of an available mechanism in the case of unexpected, you know, family event or something like that or a rainy-day fund if you need it. Sometimes people never drew down on a HELOC. Sometimes they draw down and pay it down, and so, it's difficult to sort of say, "All right, what purposes -- you know, is it fair to include that, because the loan amounts may not necessarily be – and they're not consistent, necessarily, with a home purchase loan or something like that. They were all over the map, and do they really provide meaningful information?

And I think in terms of the data issues, I always thought HELOCs did have increased protection. I mean, maybe not such as much as people might like or whatever, but I thought they were fairly strict in terms of our ability to make changes with regard to HELOC lines of credit.

On the loan modification issue, the Treasury obviously gathers a lot of data on people in the HAMP process and publishes a service or performance report each month, and GMI data is collected in connection with HAMP loans. It hasn't been made public. I assume at some point it will be. But loan modifications present a very unique situation, because they're very much customized. I mean, obviously, you have the HAMP guidelines, which are fairly strict and uniform, and I think to the extent you follow those, you know, that's -- you know, you comply with HAMP.

But quite often, you might end up with a situation where maybe it depends on the individual circumstance, and the least credit-worthy individual might end up getting a better deal by virtue of the fact that the property is more underwater, they have less likelihood of repaying their loan, or ever having a loan modification that they can sustain. So it's very hard to compare, with all of the different variations on a loan modification, in terms of interest rate, reduction, forbearance, a term extension. So I think it's -- I think it would be -- you know, it would be problematic to make any kind of comparisons.

John Courson:
I might add, again on the loan modification piece, I do agree with what Garry said and my notes say. There's a wide -- I mean, the HAMP program is a very formalized program. The non-HAMP, obviously, is as different as the servicer, as different as the mortgage holder, investor. And to try to capsulate that into data, I just don't know how you do that.

And, particularly, as we move into a phase now that the loan modifications and the delinquencies that we are looking at are really borrowers that are unemployed, and that brings another whole set of criteria in that doesn't lend itself to a number or a data set. It's a matter of unemployment, how long, the position, job, reemployment capabilities, forbearance plans, and so on. So I think when you move into the loan modifications, you really are into a very -- you know, I always say underwriting is an art and not a science. This truly is an art of taking a look at that, and factors that don't lend themselves just to raw data.

David Moskowitz:
I agree. I wind up agreeing with a lot of things that people say. I mean, I'm a believer that the mystery HELOCs is best solved, notwithstanding the fact that the purposes of our loans vary from not used, to used for business purposes. We're better off completing the picture about loan activities, by people who have sometimes have a first or second and are waiting to understand how the big picture works, is to see that. And so, assuming the debate about definition and criteria, I do think that HELOC requirements are better than what we have now, which is optional and inconsistent. So, again, assuming the debate about rules and regulations. When it comes to loan mods, refis, and particularly HAMP, I want to make a couple of points. First of all, it's true that at least for Wells Fargo, 75 percent of the loan modification's principle forgiveness and modification activities is outside of the HAMP program.

So in those cases, there's no information collected at all, but in the HAMP program, there is a -- there's one piece of paper that is a hardship affidavit where people have the voluntary ability to

enter demographic information. Sometimes they do; sometimes they don't. It's very inconsistent and very partial.

On top of that is the fact that on the servicing side, a mortgage banker -- they have no information about demographics. Those systems, at least in our company, there is none. That information isn't even relevant to what goes on, you know. So it's almost injecting an element into the process that doesn't exist now.

Having said that, I do agree with John and Garry's points about the complexity of trying to get the full picture in loan modifications. So, you know, when we're talking, Kevin, about how to describe what's going on and who's getting a loan modification, what we don't want to create is the same situation we have now on the production side of HMDA, which is just a partial picture, and banks saying, "We don't understand," because what we learned is that throughout the process of loan modification, it's a false belief to think that it's static; people have a situation, and that they get a loan modification or they don't get a loan modification.

What happens, in our experience, is that people are in the midst of financial stress, economic distress, and they'll make payments, go on a forbearance plan, they'll get a new job, they'll go back into another situation. It's an in-and-out complicated, nuance problem, and sometimes they'll just refuse to sign loan documents because they're piggybacked on top about income that was made, and the loan was originated. People worry about signing documents like that.

And regardless of who's fault all that is, I just want to make sure that if we're going to collect information about loan mods, that we collect enough information to get the full picture: What happened with that loan mod, or was this loan mod not completed because the person didn't provide income information, maybe because of unemployment? Was this load mod not completed because they applied for a loan but it was not sufficient to sustain the property, and, you know, were other options presented? It gets to the point about, John, the art. It is a very nuanced story we learned doing hundreds of thousands of these, and it's difficult to get anything other than an incomplete picture when we try to collect data that frequently doesn't exist, because it's just notes in a file about happened. When it's not in a file, we don't really know. But I do just want to make the point about the complexity of doing that.

Kevin Stein:
I think we --it sounds like we kind of agree again, because as an analyses to what exists now is pretty clear, and we -- currently, we have an incomplete picture. It's not as if there's no picture, because the picture we have is that a lot of people are losing their homes, and I appreciate that there's this kind of like static nature – nonstatic nature to people -- you know, their situation's changed, but we're well aware of a lot of people who have lost their homes, who are losing their homes. There is a point in time they got in denial, and it does appear -- and this is in California and we think with our allies in other states -- that there is a disproportionate impact on people of color, for whatever reason. So we have this incomplete picture where we -- where there's a suggestion that something is happening that's not right, and we have no information. So --

David Moskowitz:
Again, we agree. We need some information.

Kevin Stein:
And I agree that it would be kind of hard to do, but maybe we can do it, you know, at the break. We'll do it at the break.

(Laughter.)

Jane Gell:
Thank you all very much. I'd like to give my colleague a chance.

Jim Park:
Good morning. It's great to see all of you, and those were such terrific comments. Couple things. One, I know that there's a lot of agreement going on. What happened to all the fireworks that we used to remember --

Kevin Stein:
Second panel.

Jim Park:
-- at these types of hearings?

Second panel?

Kevin Stein:
Second panel, yeah.

Jim Park:
Must be, sort of, the sign of the times, I believe. We are, I think, trying to look ahead at that make it through this terrible situation we all have been in, both industry, advocacy and consumers alike. Just a couple of -- a lot of different things we just talked about, but the one thing that I want to see if we can maybe get some discussion around, I think all of you touched on this issue of the data and how quickly the data is available. As long as I can remember, people have always complained -- right? – a year and-a-half, two years out -- I mean, a year and-a-half, two years out -- I mean, that was a very a different market than what we have today.

And then many of you touched on that issue of the speed, how can we expedite the data-distribution process, I guess you will, but I think the industry representatives have raised the issue of risk tolerance or the tolerance around the states, you know. So let me pose this to the panel, first to the users, the advocates. What level of mistake tolerance are you willing to take to get the data faster and sooner?

Orson Aguilar:
If I can?

I think, you know, we're in the -- close to the heart of Silicon Valley. We fight wars from abroad by giving a kid a video-game function here. So, to me, it just sounds -- you know, if there's a

will there's a way to get data that's fairly clean. There might be some mistakes, but I certainly think the industry has all the resources necessary to make some quick decisions.

And if we just look at what happened during the predatory lending that we saw in California, companies. Mortgage companies overnight would set up shop, they would have data already, in terms of who held what loan and what account and what address, and what was their current rate and what was their -- they had it already; and so, I can't see why now when we need the data be proactive, all of a sudden, there's excuses. We've seen the mortgage industry do it quickly overnight, when we saw companies just coming and going and setting up shop and being very successful in doing business. So I don't see why we can't do the same. So to me, you know, it's understandable, but, you know, where there's a will, there's a way, especially when we have so much technology.

Claudia Monterrosa:
I don't have an issue with him. I would have to concur. I don't see why we couldn't identify those key points. That would be very, very helpful for the public and government agencies such as ours to really get access to that to see what's going on in the city or elsewhere around the local areas and statewide. So the technology tracking exists, there's automated systems, the will is there and the minds are there; so I think we just need to put our minds together, our thoughts together, and make this happen as quickly as possible.

Kevin Stein:
I just would agree. I mean, again, it comes back, for us, for the purposes of the Act, and one is to help public officials direct resources effectively. And how effective can you do that if the data analysis is two years after the fact? It makes no sense.

I think we also -- and I agree with Orson's point that where there's a will, there's a way. Things are hard. They can better speak to the challenges they would face in turning it around quickly, but if there's a commitment from the top institutions, you know, we believe there's good faith in trying to comply, if there's a requirement; and I think we heard today that, you know, whatever requirements will come, that will be challenging for the industry, but they will comply.

And so, we think it's really a question of, does the Fed and/or the CFPB want to make a strong statement that these purposes of HMDA are important enough that we're going to put more of an onus on financial institutions to report the data so we have transparency around directing resources and ferreting out discrimination, and we think that's a worthy goal.

Jim Park:
So no one wants to give on added tolerance in terms of mistakes?

Kevin Stein:
If part of that is, you know, do we think you should get really mad if mistakes are made in trying to comply in good faith? I don't think that's what we're focused on. Obviously, you want the data to be accurate. It's kind of hard to answer the question like how much inaccuracy are we willing to tolerate, but it's not meant to be kind of a gotcha, like, "Oh, that's great. We've got the

industry to have to do more work and maybe the new CFPB will really come down on them if they make mistakes."

We just want -- we want the data to be more meaningful. That's the purpose of the Act, and that's the charge of the regulators, to make it meaningful.

Jim Park:
Now, given the spirit of this kind of more understanding environment, would you be willing to move faster to provide the data?

Garry Seligson:
Couple of things.

One, I mean, obviously, we might be able to do that with regard to the existing data requirements. I think as to the data requirements, which again, are doubling -- more than doubling -- I think we have to -- you know, one, there's a lot of detail and guidance that has to be provided in connection with that. John mentioned the credit scores, and we talked about DTI, and it goes on and on in terms of what the variations are going to be, what the rules are going to be regarding those. So there's a whole level of training that that has to be associated with that, so I can't even speak to whether or not we'd be able to turn those around quickly.

The tolerance level is important because there are several penalties associated with HMDA, and they're substantial; I mean, they piggyback off the FDI Act, which I don't know -- you know, they have a range, 25,000 a day or whatever and, you know, going all the way on up, so it's not a minor concern for us, it's a real concern. And I think there have been over the years a number of enforcement actions with regard to the HMDA data. I don't have them at the ready, but I believe there have been, so it's not -- it is a real concern for us.

And, you know, and again, maybe one way to approach this is to look at it in terms of, as I point out in my written testimony, is to make it, if you're off on a FICO score or whatever, you know 642 versus 643, and that shouldn't be a big deal. If you go below 640, which is an industry-recognized benchmark, or 620 or 720 or whatever, that might be a bigger issue, so maybe there's a way to work the tolerance to the point where it's not a stripped "gotcha" kind of game.

And also, looking at the individual items, how important are they? If you're off by a day on the day, you know, the application's taken or the action's taken on the loan, that shouldn't be meaningful. If it puts you in another reporting year, that might be a different story. So I think that some rational approach to tolerance goes along with some fairly generous --

Jim Park:
But your sense is that you can expedite the reporting process --

Garry Seligson:
Well, I think we probably --

[Concurrent discussion.]

Jim Park:
-- if you had some tolerance?

Garry Seligson:
-- and sharing it with the regulators, but what I don't really know -- and I apologize for this -- is what confidence level our folks have and we do, on a quarterly basis, have some data-integrity reviews with our regulators, but that's far from releasing it to the public. I think the last thing we want to do is end up with -- you know, we already had, you know, exaggerated claims of discrimination because people were, you know, taking the data and perhaps, you know, making the -- drawing the wrong conclusion. We don't want to, you know, compound that by having inaccurate data available.

So I think it's probably an area we can work in, but I think the future is yet to be determined in terms of, you know, what we can commit to.

Jim Park:
Okay. David Moskowitz?

David Moskowitz:
Well, let's think of it in terms of timeline. We know we don't have a designated transfer data. We don't have the start date for the Consumer Financial Protection Bureau or the movement of all the pieces. We don't have the rulemaking to implement the stuff that we are going to have. So we have a while before these things are going to be in the hands of the public anyway. It's going to be a couple years. So I kind of think that, you know, we can certainly enhance the, you know, the nature of the information that we currently disclose even without the risk factors.

I'm a believer that candid conversations with leading organizations on a periodic basis are helpful, even if they're not of the official initial HMDA information. We obviously have a sense as to how we're performing with respect to HMDA, CRA, and other things, almost real time, in a very general sense. So I think we have to break it into two timelines. Can we, you know, aggressively attack the regulatory time tables so we can get useful information into people's hands?

I just want to say one other thing. The comments that's going to stick with me today, so far, is Orson's comments about the risk of becoming so conservative, as a result of granularly placing people into these boxes explaining the outcome, that we are going to make credit less available as a potential risk and lenders get so fearful, that we're going to make a mistake. We want to treat people fairly.

So, obviously, there are unscrupulous lenders who are -- no-doc or low-doc loans for people that can't afford to repay them, how do we strike the balance between the information telling us how to be responsible, how to be credible? How do we continue to be creative about making credit available? And how do we tell that story in a way that is constructive and not destructive? Because I don't wanted to over-correct. I want to make it more available, so possibly more available. So that's not exactly the answer to your question.

Jim Park:
Well, that's a good comment, but there you go again agreeing with the advocates again. John, you want to close it up for me?

John Courson:
Yeah, let me just quickly -- first of all, I want to quibble.

Jim Park:
Good, that's why I'm here.

John Courson:
Those are great comments. We can't go back to where we were, so rather than – I always say to our members, "Let's not talk about more homeownership. Let's talk about sustainable homeownership."

It's not a matter of how many people are in homes, it's a matter of people that are in there that can sustain that home and their property. Let me just quickly -- Jim, I think your question is right. I would say come back in 24 months and ask it, and we'll be able to -- the industry will be able to answer, because we don't know the rules of the game as my associates have said, and until you know, really, the specifics and the timeliness, I don't think you can talk about how much -- how can you improve the reporting cycle and how can you get tolerances.

Jim Park:
My only point on that was that it's something we have to think about, because, obviously, we have two sets of sort of complaints, general complaints. One is not enough information or transparency around the decision making around loans, and the other is, it just takes so long, that by the time you get it, how relevant is it at that point, you know?

Sandra Braunstein:
Thank you, Jim.

John Courson:
Right.

Orson Aguilar:
Can I say something?

Sandra Braunstein:
Quickly.

Orson Aguilar:
Yeah, I thought you were going to ask a question around privacy, because as you heard in the mortgage industry security, that's their number-one concern. So that's our number-one concern, is how is the industry going to police itself to not use that data and in unscrupulous ways, because, you know, from what we've seen, the privacy matters, you know, the information is

already there, they've sold it to each other and have purchased it and have used it to do unscrupulous things. So my question to the industry would be, how you are going to police yourself with this data, or do we need further regulation to make sure that this data is not misused. So that's our main concern.

Sandra Braunstein:
Okay. I'm going to try to do one more very quick round. We don't have too much time, so each of us could just ask a quick question. We can try one more. So, actually, Orson, you kind of read my mind, which is scary, because I was going to go to the privacy question and, frankly, this is -- because I know this is not a quick question, I don't frankly need to hear from the industry, because I know what your viewpoint is, but I want to ask in particular -- Orson and Kevin, this is addressed to you.

So the privacy issue is a real one in the sense of, you know, even with the membership of the constituencies you represent, I wonder how people would feel if it was put out for the world publicly that somebody could look at this HMDA data and see where they live, what their credit scores are, all kinds of personal information about individuals. And just looking -- I'm looking for some assistance here, because I also know that a prime motivation for the HMDA data and for you is to get as much information as possible so you can do the kinds of things that Orson just talked about, and monitor what's happening in the industry.

How -- can you give us some advice? How do we reconcile this and, you know, try to get outside your role as researchers who would -- with researchers, there's no such thing as something as bad data, data is all good, but as human beings, if you were on that list, you want the whole world to know your personal information on finances? Like, how do we deal with this going forward?

Orson Aguilar:
First of all, a lot of information is already there. It's not in the public's hands, it's in the private hands. And as we know, the industry has it. I get mail all the time that says, "I know your account number is this with this bank, and this is your balance," and so, the information is already out there on an individual. Now, what this will do is give it to the public.

And I do agree that, you know, we need to figure out -- and this is, you know, looking at some of the comments, you know, we don't need to be specific, but perhaps we can talk about ranges. So we don't need to be specific about somebody's age, but we can be -- you know, put it in certain age ranges. We don't need to be specific about somebody's specific FICO score, but it could be within a range. So I think we're willing to work with that, because we don't want to see that, and I think we will get the same amount of data if we do create ranges that reasonable to hide that. But, you know, the point is, a lot of information is already there, it's already available. Unfortunately, it's just in the private-sector hands, but I think it's a legitimate concern, and I think that if we can work on the right ranges or blocks, we can alleviate a lot of those concerns.

Sandra Braunstein: Kevin?

Kevin Stein:

Yeah, similar response. You know, everyone gets those letters that Orson's talking about. There's so much information that's in the public domain already, so the question is how much would the HMDA data exacerbate the problem, assuming that there's no way to really deal with it? And we believe that there is a way to kind of collect more data, and not really provide -- we're not interested in knowing the particular address of a particular person.

And as I think my -- I would just say I think the folks on the second panel will have some good and thoughtful responses to this question. And I think part of the issue is, who are we really concerned about? And Orson mentioned this before. It's not the academics and the community groups that want this information, it's the industry groups. Also have to say the idea -- it's a real issue and we have to deal with it, but it's very difficult to hear the industry raise concerns about privacy, because I would very much be interested in all those that are concerned about privacy, what was their position on protecting financial privacy?

We had a state initiative a few years ago protecting consumer's financial privacy. My recollection is that many members of the industry spent a lot of money to oppose that, so I think we have to kind of look at how genuine is the concern being raised, how much it really exacerbates an existing problem.

I remember a few years ago, what I was amazed to see, just dealing with the HMDA data, that looking at the SEC filings and seeing how much data is available to investors and then, more recently, seeing data that's available through some of the trustees about loans that have been securitized, which I believe go by the address, and foreclosure data by the address. So there's stuff out there that's a lot more detailed than we see in HMDA at the same time.

So that's not to kind of poo poo the concerns about confidentiality, but we're not interested in particular addresses. HMDA, so far, has been good about, in general, just looking at census, you know, looking at census track, and we think there are ways to do that. We don't need to see the parcel number for each individual person. I'm sure it's more complicated, and I think the folks on the next panel will have better responses.

Sandra Braunstein:
Thank you. Claudia, did you have anything to add?

Claudia Monterrosa:
Well, the way that we – I mean, we do collect information at the address level. We do purchase that, so that's already available. And we get names of -- we get parcel, we get the name of the borrower, we get the trustee name, and we get the lender. What we do is that we mask that information, because we want to know what's going on in the neighborhoods.

So perhaps we just need to continue on that way and put those parameters to protect the privacy of the borrowers, but I don't -- sometimes information at the tracking level is not helpful for organizations like ours. So we need to see what's going on at the street level, but maybe make some of that data available to -- I hate to say that, but to some sectors and make the publicly available data more private. So I still do think we have to have it at that detailed level, though.

Sandra Braunstein:
Okay, thank you.

Allen Fishbein:
I think you're probably aware that the new Dodd-Frank law also requires HUD working in conjunction with the new bureau to develop a database that would look at defaults and foreclosure activity, and that, obviously, will take some time to construct. But I was wondering if any of you have advice for, as changes are made to HMDA that are done in a way that minimizes any duplicative efforts on the part of that other database or actually could possibly enhance the ability of that database to provide useful data.

Kevin Stein:
I would -- I would just say, I think it's important to try and make it all together, and my understanding is this Universal Loan Identifier is a way to follow the life of the loan, including the default and foreclosure. So I don't -- I can't say how, technically, to make it easier on the industry to report the data, but ideally, the public has access to that information.

I know recently I was privy to a conversation where a particular neighborhood was interested in how foreclosures are impacting certain people of color, certain borrowers, in their neighborhood, and they contacted one of the regulatory agencies and they said, basically, that data doesn't exist. Currently, to go through a very convoluted process of merging different databases, and it would be nice to kind of get beyond that.

Allen Fishbein:
Do others have comments particularly about whether the loan identifier number would be a way to --

David Moskowitz: It's a way for two things. It's a way of doing exactly what Kevin described, which is -- and I think it is an interesting concept, because a loan could be originated by a broker, who sells it or originates it for a loan correspondent, who then sells it to a bank, who transfers the servicing to someone else and blah, blah, blah. So the loan has a life circle, and putting that all together is virtually impossible. We can do it internally with what we have, with great difficulty. The flip side is that that Universal Loan Identifier, in a manner that the bureau may have determined appropriate, is you. And it'll tell the story about what happened to you, and your neighbors will know you didn't pay your bills and that you're being foreclosed on; of course, they'll know that anyway, but it is. Some of those databases that we mentioned are out there, like securitization databases and others, are for people who own the loan, they are subject to an exception, and they're telling people who own a loan about what's going on with that loan, but it does carry with it privacy concerns. I think that if I was going to give any advice to the Fed and the bureau, it would be to tell the story of that loan, it probably makes sense to have a field on HMDA that, then, is populated with outcome of the loans that is going to be sold, it can be paid off, it could be re-fi'd and paid off, or it could be just paid in full. It could be a short sale. There are a lot of things that could help you to understand what's happening. And by the way, having that wouldn't tell you anything -- because it won't tell you the reason it happened is whether the person was hospitalized or that there was a significant financial -- or that it was just

the product of bad lending. I mean, you'll still have the same problem you started with, which is what really tells the story and what doesn't tell the story? But the statute requires the word.

John Courson:
Real quickly on the uniform loan identifier, we spent a lot of time on this, and the association does support a uniform identifier; and, in fact, as most of us know, we have one out there, the (inaudible) number that is sort of used by Fannie, Freddie. What's happening, however, is -- it's ironic -- at the same time we're moving towards trying to get this uniform identifier, which along with the SAFE Act and originators and so on, can really get some robust information -- there is a move afoot to create another identifier for loans that are being private-labeled securities. And so, we really have sort of a crashing together of an initiative called "Project Restart," to provide number or a separate numbering system for loans that are being private-labeled securities. I think to really achieve all this, we really need one uniform identifier for all mortgage loans if we're really going to accomplish the purposes of HMDA.

Sandra Braunstein:
Thank you. Jim, are you okay, or do you have something?

Jim Park:
One real quick issue. A number of folks raised the issue of sort of subpopulation data, particularly with the Asian segment, which has an issue of -- I know that in terms of compliance, collecting ethnicity, race information, has always been a little bit of a challenge. What can the industry or everyone do to kind of improve the collection of that data, if anything?

David Moskowitz:
You know, that's a great question. One of the challenges with HMDA demographic information is that if the person chooses not to provide it, the loan originator has to invent it based on visual observation or surname, and so that creates kind of this element of guesswork and inaccuracies that probably – I don't know if it's a big problem, but it's a problem for individuals. It's real uncomfortable for the person doing it to try to do that. It doesn't apply to telephone applications. You know, we in the industry will do whatever we're asked to do here to identify subpopulations. I just don't know the nature of, you know, how people will complete that or whether they'll be willing to complete that or accurately complete it. You know, it's just, I think, we have to recognize that those designations are as perfect as people are.

Garry Seligson:
I'd actually like to know more about the issue. I just really hadn't given any thought before I came here, so I'd be happy to if I can understand what the particular problem is. I agree with David. The visual observation of surname investigative level of discomfort at the loan-originator level and is sitting across from an applicant who has chosen not to provide this information, then you have to do it based on your observation or guesswork or whatever. And, actually, if there was something that was -- you know, we were looking to get rid of, I think that would be something that I would suggest we eliminate. I don't know that it serves a real purpose, and I think that it puts people in a difficult position.

Jim Park:

You're talking about getting rid of the visual observation?

Garry Seligson:
Yeah, the visual observation --

Sandra Braunstein:
Not recently, I hope?

Garry Seligson:
Oh, no, no, no.

[Laughter and concurrent conversation.]

Male Voice:
Yeah, that and the other reporting data.

Jim Park:
Kevin?

Kevin Stein:
I think it's significant in that both the Greenlining and CRC -- we didn't check on this beforehand, that we hoped that this was one of our recommendations of all statewide groups in California. A very important issue, we've been doing HMDA now for, I don't know, 20 years. We have -- I don't know that we've really looked, certainly, not in last decade, at Asian borrowers, because "Asian borrowers" is such a broad category, that it's meaningless. And all the groups that work in the API community will say that people are having a tough time, people are impacted, they have the same issues that we have in other ethnic communities, where people were targeted based on language, based on ethnicity, based on where they live. All that is lost in terms of -- so we think it's really, really important to pull that out once and for all, because we're basically -- I think for analysis purposes, in serving all those key three goals of HMDA -- we're writing off the Asian community by not really digging down a little deeper.

I'm not sure that we're -- I haven't thought about it in terms of us expecting a loan officer to guess the ethnicity or the national origin of someone who's in front of them, so I don't -- maybe there's not really a disagreement. The other piece of it for us is language. A few years ago, I think four years ago, maybe in this room, the Fed had hearings on HOEPA, and there were a large number of people who came and really focused on the issue of having been ripped off by Affinity, ethnic brokers or lenders speaking to them in their non-English language, and they got completely ripped off.

In a way, it was actually like the canary in the coal mine for the whole crisis. This was the summer of 2006. And we had people coming in, testifying during open mike saying, "They told me one thing, and two months later, I got my statement and I could not afford that loan." And these -- and then a few months later in the media, it was -- we were hearing all these reports about early-payment defaults -- early payment defaults -- where the people just got completely ripped off and they couldn't pay in the beginning. And that's when everything

started to collapse. We've asked the Fed to look at this issue. We will ask the CFPB to look at this issue. In California, in particular, we've seen too many people who get ripped off because their negotiation is in one language, the documents are all in English, and there's no telling that those two are the same thing. Again, we need more information to get a better picture. Maybe we need -- you know, maybe it's not a full picture, but it's a big issue. Our state has spoken to this issue, it's a big policy concern, and we think the Fed really needs to do something on this. We saw in the TILA comments there was, I think, one page out of -- you know, we were glad it was there, you were asking about it, but we need action on this, because people are being abused, and it's all hidden.

Sandra Braunstein:
Okay. Thank you very much. I have not been as disciplined as I've made you be. I apologize for that. I'm getting all kinds of nasty looks and notes from my staff because we have definitely gone over. So, unfortunately, we're going to have to end now, because I'm sure we all have a lot more questions, a lot more issues. This issue of race-reporting is a big one. Maybe we can take some of that up with the next panel, too, because it is an under-reported category, and I think there are issues of a lot of it comes in through visual and it makes you wonder how accurate some of it is, because people are guessing; and especially the surname thing, you know, because you don't know if people with married names and other kinds of things, that there name could be Smith, and they might be Korean. I mean, you just don't know, because....

So, anyway, that's a big issue in terms of how to make that more accurate and make sure that it's meaningful going forward. There's a lot of other issues we didn't get a chance to explore, and hopefully we will put the second panel on notice to talk more about how do we – the privacy issues, also how do we collect credit-score data that is now going to be required, considering that there are so many different versions of credit scores out there. So how do we not end up with a lot of apples and oranges on that?

So we've got a lot to discuss when we get back. We are going to take a break for 15 minutes. We will reconvene at 10:45, and I would ask during that break, if the second panel would come forward, you know, during that break so we can be ready to go at 10:45. With that, I thank our panelists very much for a great discussion.

[Applause.]

[Recess taken.]

Preston DuFauchard:
Thank you.

My name is Preston DuFauchard, the Commissioner for the California Department of Corporations. Let me give you a brief idea of what the Department of Corporations is about.

We're responsible for the regulation and enforcement of the California securities laws and also the state lending laws for nondepository institutions. So, in this latter area, we are charged with regulating everything from large commercial lending to mortgage lending and payday lending.

When I took office in 2006, the department's largest mortgage lending licensees included companies like New Century Financial, American Home Lending, Ameriquest, and Countrywide Financial.

Much has changed, and with that change has come a new perspective, at least for me, so I appreciate the invitation to be on this panel today and share some of my new perspectives on how some changes to HMDA data can and should occur.

Specifically, I want to address one additional data element that really wasn't discussed much in the prior panel, so I was glad I'm not repeating anything anyone said on the first panel, and then one change in the area of coverage for HMDA reporting.

As for data elements, any additional data element, as was discussed earlier, that has to be captured by HMDA reporters will increase the regulatory burdens and costs of compliance. And, of course, having been in the private sector, I remain sensitive to the costs of regulation, especially the cost versus the intended benefits.

The Dodd-Frank Bill recently passed by Congress and signed into law creates additional data points to be collected. And I agree with most of them, particularly around areas regarding the features of negative amortizations in loan and credit scores.

Although I will say that credit-scoring issues may be somewhat in flux as companies try to develop new and alternative credit models for the scoring of consumer credit. But I support adding one additional data element not included in Dodd-Frank, and that's the loan-to-value ratio, and I suggest that for two reasons.

First, HMDA data has traditionally been used to study whether minority communities pay higher costs for mortgages than other people. And interest-rate spreads, yield-spread premiums, have been measures that have been used in studies around HMDA data. As the frequency and the use of those types of costs recede, either as a result of legislative restrictions or market constraints, LTV ratios may present another metric to study whether upfront costs are higher among certain communities than in others.

In a more normalized housing market, for example, it would be interesting to see whether minority communities carry lower LTV loans at origination, which may translate into a more restrictive credit market for similarly situated consumers.

The second reason for including this data element in HMDA has to do with monitoring asset values, like the housing bubble we just experienced in the beginning of this century.

In California, there's a structural-housing deficit. There's always more household formation in the state than there is the available housing stock, and for that reason, California homes are typically at a premium than in other parts of the country.

But using the LTV ratio can provide a good barometer of whether a bubble in home prices exists, whether on a metropolitan-statistical level or a statewide level.

In other words, if lenders are originating relatively high LTV loans amid an increased rate of home price appreciation, this would be an indication of an artificial asset appreciation, and at that time regulators would likely see the need to react -- again, assuming we get the data in an appropriate time frame.

Then, in addition to the LTV, I believe the scope of information for HMDA should be broadened to include reverse mortgages.

In California, we've enacted a substantial number of consumer protection laws pertaining to the origination of reverse mortgages, but we have no way of capturing how many such mortgages are originated, and given the aging population, and the recent increases in consumer debt, it's important for us to be aware of how many reverse-mortgage transactions take place.

This information has policy implications as well. One of the main premises for the societal value of homeownership is that it brings wealth generation. It creates wealth generation. Homeownership has been a way to consolidate wealth and pass it off to the next generation. Reverse mortgages have a tendency to liquefy wealth, and to that extent, there's a question about whether a reverse mortgage will be seen more as a way of supplementing Social Security rather than, you know, concentrating wealth in a family.

So I see my time is up. I wanted to talk about the SAFE Act, but maybe I can do that during the question-and-answer session.

Keith Ernst:
The Center for Responsible Lending thanks the Federal Reserve for its timely review of Regulation C and for the invitation to appear today.

While reviews of HMDA are always prudent, the financial crisis has certainly heightened appreciation of HMDA's fundamental purposes and of the need for better home lending. As a baseline, I note CRL wholly supports the recent statutory amendments. Those advances are substantial and will require thoughtful implementation. Setting that technical complication aside for the time being, CRL suggests that HMDA should be further strengthened by revisions to required fields, reportable transactions, and covered reporters.

First, to better assess the fairness of any given loan, regulators and others need information beyond the fields that are explicitly mandated by Congress. We strongly support adding basic underwriting and pricing information, such as debt-to-income ratio, combined loan-to-value ratios, and reporting on escrow status.

Second, we believe loan coverage should be expanded to include virtually all types of loans lended. One lesson for the subprime prices was the unscrupulous lenders were heavily "incented" to encourage borrowers to extract home equity. Today, it is easy to imagine such a lender training their sights on open-ended home equity loans, for example.

In a revision that expanded the scope of reported loans, it may be advisable to preserve certain narrow exceptions and to add one for loans that create only a remote interest in a home through cross-default provisions. In addition, the paucity of mortgage-modification data has greatly complicated efforts to address the foreclosure crisis, and particularly in HMDA terms, for policymakers to understand where additional public indictment may be necessary. Consequently, we believe the Federal Reserve should require institutions to report data on mortgage modifications and related applications. Such reporting could include information that would allow the modification or application to be linked back to the original HMDA-reported loan, where possible.

Third, in terms of reporting institutions, we believe that HMDA's data collection should reflect the key role played by the secondary market, and to this end, we support extending the reporting to the full range of secondary-market participants that purchase the loans. Finally, we believe that HMDA reporting requirements for nondepository institutions should be updated. One challenge with current reporting requirements is that they potentially allow “low road” lenders to evade detection while nevertheless affecting many families. We believe a for-profit, nondepository lender should be required to report HMDA data if it originates or purchases more than 25 mortgages during the course of a year.

Incorporating new information into HMDA will doubtless present choices and challenges. We also want to take advantage of this opportunity to offer three principles as a guide for the revision process. First, HMDA should remain an application- and loan-level database which is broadly available to the public. The present database structure and availability has enabled users with diverse perspective to draw important lessons. While a "trusted researcher" model should be established to supplement the content of public releases of HMDA data where necessary, its existence should not serve as a rationale for constricting access to reported information.

Second, especially to assist in detecting potential discrimination, HMDA should include key variables that lenders generally use to underwrite loans. These variables could be construed to ensure internal consistency within lenders and promote external consistency of measurements among lenders. While balancing the costs and benefits of adding variables, we believe it makes sense to distinguish ongoing marginal costs from implementation costs.

In addition, while privacy protections are important, thoughtful procedures should eliminate the need to choose between protecting privacy and collecting important variables. Time prevents me from elaborating on this point now, but I hope we can have some discussion of how multiple and layered measures can be used.

Third, regulators should seek opportunities to enhance HMDA's usefulness. For example, we recommend exploring steps to release the data more quickly. This could be accomplished both by decreasing time from submission to release or by increasing the frequency of releases; however, increases in frequency should be evaluated carefully for potential privacy implications.

In addition, staff should explore opportunities to enhance the data's usefulness by, for example, taking advantage of new fields to identify piggyback loans, prepare a fine-grained set of housing

price indices, or even add information that would allow for the parsing of first-lien loan transitions within and between annual data sets.

I know we'll have a lot more discussion of the specifics and some of the technical details. I'll look forward to that in our discussion.

Alexis Iswanisziw:
Good morning. My name is Alexis Iwanisziw, and I'm a Project Associate for NEDAP. Thank you for holding this hearing and for giving us the opportunity to discuss home improvement, Regulation C, and to the data provided under HMDA.

For the past 15 years, NEDAP, the organization where I work, has used HMDA data effectively in a wide variety of activities, and it really has been a vital component of our work. And as such, we really appreciate the strengths of the data and especially the loan-level data sets, but it's always been confronted by weaknesses in the past; specifically, the lack of underwriting criteria.

We've used this data in a variety of ways to help community-based organizations with CRA challenges, to help legal services organizations identify possible discriminatory lending practices, and statewide campaigns for improving policy on responsible lending, and also in our foreclosure prevention, education, and outreach work.

So there are three main recommendations that I'd like to make today. The first is that the Dodd-Frank Act revisions to HMDA are a huge step in the right direction, but they do lack some important criteria; specifically, things people have been talking about all day -- debt-to-income ratio, combined loan-to-value ratios, and escrow status. In addition, the lack of specificity about how the data should be provided is also a great opportunity to shape the data set and ensure that all the data will be available at the loan level.

And as Keith said, I'm really looking forward to the later discussion on how we can actually implement that and protect borrower privacy while still maintaining low-level data.

Second, we recommend that the scope of HMDA be increased to include more information on multifamily housing. It's really important in New York City. It's a huge sort of housing stock for us. And we'd like both construction and permanent loans reported, and also to have banks report outside their CRA assessment areas as well. We also recommend that all types of home-secured loans be reported, as people have talked about, and home equity lines of credit. We second people have been saying about that all morning.

Third, we'd like to prioritize HMDA enforcement and make sure that banks are reporting data in an accurate and timely manner. And the recent settlement with Citi Financial has shown that hasn't always been the case, and we've asked the Board to take a leadership position in making sure all the regulations are enforced.

Finally, I'd also like to second the recommendations that people are making this morning about adding loan-modification data, especially HAMP-modification data, as a HMDA-reportable transaction. The HAMP modification has been one of the primary policies for addressing the

foreclosure crisis and we right now have very limited data to assess whether or not our policy responses have been effective in helping the people who have been hardest hit -- borrowers in communities, borrowers in communities of color. And so, it's vital that we have that information on an ongoing basis to make sure that our policy response is appropriate and doing what we hope it will do.

So I'd like to thank you again for the opportunity to speak today, and I look forward to our discussion later.

Kathy Rodriguez:
Hi. Good afternoon. Thank you to the Federal Reserve Board for inviting me to participate in today's hearing regarding potential changes to Reg C. My name is Kathy Rodriguez. I'm a senior VP and Consumer Compliance Manager at Bank of Hawaii.

Bank of Hawaii is a $12.4 billion regional bank located in the State of Hawaii. We provide financial products and services, primarily in Hawaii, and also in the Pacific Islands of American Samoa, Guam, Saipan, and Pilau. Mortgage lending makes up a significant portion of Bank of Hawaii's lending portfolio, approximately 35 percent. In 2009, we originated 3,554 mortgage loans, totaling 1.2 billion, of which the majority was sold to in the secondary market to investors while we retained the servicers of the loan. Thirdly, we service 23,943 residential mortgage loans, with outstanding balances totaling 5.2 billion. We have a 26.1 percent market share in Hawaii. Annually, we submit approximately 5,000 records on our HMDA loan-application register.

As a federally-regulated financial institution, we use HMDA data to conduct analysis, for Community Reinvest Act purposes, and to determine if we are meeting the housing needs of our communities, and for fair-lending purposes, to identify discriminatory lending practices. Our supervisory agency, the Fed, has examiners review our data at least annually to assure its accuracy. For at least the last ten years, we've had no data issues identified by a regulatory agency; however, this has only accomplished many, many hours of verification, training, and reverification of the data. Approximately 95 percent of our HMDA applications and loans are originated in our Mortgage Banking Division. At the end of every month, a data file from the Mortgage Banking Division's Loan Origination System is imported into data-collection software that helps manage the scrubbing of the data and reporting of the loan. However, data for applications and loans originated in other business units, with no origination system, is manually gathered and entered into the data-collection software. Each of these business units has dedicated staff that verifies the accuracy of the HMDA data. In addition, our corporate compliance department conducts an additional review on the integrity of the data at least annually.

It should be pointed out that in signs of increased volume, which occurs in low interest rate environments such as what we have today, not only must handle the increase in volume, but to manage such compliance. Bank of Hawaii provides training to all staff involved with HMDA reported transactions on an annual basis, and more frequently as necessary. We provide two different types of training: one for those that originate and monitoring information, and another more detailed and technical, for those that complete the HMDA loan application registrar.

We estimate that the bank spends roughly 5,100 hours, and at a cost of $142,000 annually in the collection and submission of HMDA data. For the rest of my time, I'd like to share some comments on data elements we find useful in conducting fair lending analysis.

We agree that the current HMDA fields are not sufficient to explain the disparities that may occur in pricing. In both our investor and portfolio loans, combined loan-to-value, loan-to-value, credit score, and debt-to-income ratios are important variables considered in making the credit decisions and in determining the pricing of the mortgage loans.

Other key factors, such as whether the loan is from a broker, the type of property -- for example, if it's a condo, hotel, or if it's two-family residence and if the refinance cash-out is for purposes other than home improvement or home purchase, provided explanation of the increased risk, which will be reflected in the increase pricing of the loan.

My final comments are that while we agree that additional data elements should be valuable to explain disparities, expanding the collection and reporting of HMDA data elements will come at a price of additional resources and costs burden, in time and systems, for financial institutions. Thank you very much, and I look forward to the questions that you may have.

Elvin Wyly:
Director Braunstein, Members of the Council, and dedicated staff, thank you very much for the opportunity to comment to on the changes to Regulation C.

One definition of the word "data" is "known facts," but the word "fact" is Latin for "a thing done, good data, or good deeds." HMDA was a good deed, although it has always been criticized for what it does not include. This information is missing, of course, because most of the financial industry has fought disclosure every step of the way. The Board now has the chance to do good deeds: fix Reg C so that HMDA data reflects all of the innovations of today's financial marketplace.

Now, two things work and should not be changed. First, HMDA is extensive. It's not a sample. It is a micro-data, and it covers most of the market. True, it cannot tell us all the unique circumstances of individual consumers, but whenever we see these unique circumstances in a news story or report case on predatory lending, the inevitable response is, "This is just anecdotal." Well, whatever else you can say about HMDA, there is nothing anecdotal about a common-metric analysis of inequalities across millions of borrowers across America's cities and suburbs. If unique details matter, add data elements so that we can account for those factors.

One successful model of thinking beyond what was specified in Dodd-Frank created is the National Mortgage Data Repository created by Renoir, McCoy, and Ross. Now, the second success is freedom of access. The data was created by public law, and they're a public resource. Keep it as free and as public as possible.

Now, how do recent events change the way we should think about HMDA? Well, using HMDA to study mortgage markets today is kind of like surfing -- riding the big, fast wave of market innovation, but you're perched on a surfboard looking backwards. It may well be impossible to anticipate all of the next innovation, like securitization and the mortgage market. The new data

elements specified in Section 1094 of Dodd-Frank are not much more than what researchers recommended a decade ago. So the Board should regard these as an absolute minimum, make the reasons for denial mandatory for all institutions, add data elements for combined loan-to-value, home equity lines of credit, reverse mortgages, balloon-payment terms, cash-out refinances, and both front- and back-end debt-to-income ratios; reduce the reporting thresholds, and cover all entities making or purchasing any significant number of loans. Subsidiary structure was used during the bubble to evade regulation, and there's already evidence it is being used to evade parts of Dodd-Frank. Level the playing field.

Now, how should we balance public disclosure with privacy concerns? As far as possible, preserve the historical continuity of today's LAR format, but to minimize the risks of the new data elements, the Board should distinguish the concepts of privacy, confidentiality, and anonymity. Privacy refers to people interested in controlling the information about them. Confidentiality is the rules of data sharing. Anonymity simply means no personally identifiable information. Now, Reg C already maintains anonymity and confidentiality. Now there are several technical steps the Board can take with the new data elements to minimize privacy threats -- and I've written a little bit in my written testimony – but that threat comes not from the information, but from how it is used. The main threat comes from private industry itself. So, beyond the steps the Board takes to ensure anonymity in public-release files, the Board should explore the legality of issuing parts of HMDA under something like a creative common, noncommercial use license, or having to establish confidentiality protocols now used for certain census data.

For anyone who respects the value of measurement, evidence and reason, HMDA has been one of the most successful policy innovations of our lifetime. Dodd-Frank gives the Board the opportunity to modernize and expand disclosure and to capture the dramatic landscape of innovation in the financial marketplace. Let's do a good deed.

James Zahradka:
Good morning.

I'm James Zahradka with the Law Foundation of Silicon Valley, and I'm Supervising Attorney of two of our programs there -- Fair Housing Law Project and Public Interest Law Firm. So I'm the last person to talk today, so I'm going to really try not to rehash what's already been said, but I'll try to focus on a few points: our experience with the HMDA data, the few additional data points we think should be in there.

On the privacy issue, though, I think I may not be as fluent as the gentleman to my left here --- I'm not really sure if you're to my left here, but anyway -- eliminating the issues that Elvin brought up and also the issue of expanding it to include mortgage brokers. So I talked to a couple of other fair-lending practitioners out there in preparation for this, and we found it of limited use in achieving one of the stated purposes that you heard at the beginning of the day, which is to identify possible discriminatory lending patterns, and enforce anti-discrimination statutes.

You know, I heard the phrase used by one of the industry representatives that there are exaggerated claims of discrimination out there. I imagine that's probably the case, but there are other problems created by bad data on the other side of the equation.

The case that we -- when we were trying to put HMDA's data to use -- was interesting in that it showed that 100 percent of the loans that were issued by the particular lender we were looking at, which were white borrowers, which was interesting to us, because we had just signed retainers with six Latino families who'd gotten loans from that lender in the relevant time period, and we had five or six others out there who had also gotten loans from this lender. We did end up representing them, but clearly, this data was fundamentally wrong.

Of course, we had additional information demonstrating that, in fact, this lender was targeting Latinos for inferior loans through, I might add, some unscrupulous mortgage brokers. We got that data from our clients and from the Business and County Recorders office and put it together manually. But if we hadn't done that, these discriminatory practices by the lender, this case study resulted in a very positive settlement. This was in 2003, 2004, as Elvin said, kind of at the very beginning of the cusp of the crisis really. This discriminatory lending would have gone undetected, uncorrected, and more folks would have been hurt. So we weren't really thrilled by that performance of the HMDA data, and I think you heard reference earlier to the Citibank settlement, where I think they under-reported -- something like $90,000 just weren't reported at all, and that had slipped through until the state AG sued them.

So there are some issues there, and so, it's critical for us to get good data when we are going to court. The courts are, you know, quite rigorous about making you show and prove your case in a way that is more than you would put in a report to go to the media and to the public. And if we can't get good data that a court will use, the law is not good use to us.

We also saw during the crisis that, unfortunately, government doesn't always do a good job of policing of issues, so private enforcement is very important, because, again, this idea that some of the data should be kept private and only held in the government's hands, we need private enforcement out there.

So let me get to some of the issues that we really see in our practice, one of which is this issue of limiting of efficient borrowers. As Kevin mentioned, four years ago in this very room, we heard from a series of borrowers who had been the victims of bait-and-switch tactics by lenders and brokers who preyed on their lack of fluency in English to sell them one loan orally, and then they got a bunch of English-language documents that had completely different terms, and they were immediately in a situation that they shouldn't have been in, with really devastating consequences to them and their communities.

So, these practices seem to also be repeated, I might add, in the loan-modification context, and I want to talk about that in the time I have left here, because what we're seeing is a lot of people who are being taken advantage of by low-mod quote specialists. They've been forced into the arms of these folks by the failure of the servicers to really step up to the plate and modify the loans the way they should. These folks are getting the same routine -- the bait and switch -- where "I'm going to get you a modification of your loan, just pay me $4,000." And they get a

lengthy English-language contract, after having negotiated in Spanish or another language, that is completely different terms, no money back, of course; no guarantees. Surprisingly, the loan mod gets denied, the scammer refused to return the money, and the already stretched homeowner gets some several thousand dollars and lots of precious time into that effort.

So, again, it seems that homeowners are being revictimized on the basis of their national origin, language ability and proxy for national origin and also note that there are media reports out there about separate call centers that some services have for English-language speakers and Spanish-language speakers. The English-language speakers get actual loss-mitigation folks. The Spanish-language speakers get what seem to be more like collection efforts. So there are some real issues out there. Again, I think this is an absolutely critical data field. We need to capture whether this person negotiated the loan in a non-English language and their fluency.

But I want to just address one thing, one more thing on this issue, which is the danger of removing the person who's sitting down with the borrower -- removing their ability to determine the ethnicity. We have a lot of folks who are first generation or just immigrants to this country who, I think, would be very reluctant to identify their race. And if we take that ability to fill in that -- by the person negotiating out of the equation, we might lose a lot of data, and sometimes it’s quite obvious that the person is, you know, in a protected category. So I'd caution against that just throwing that out.

Thank you very much.

Sandra Braunstein:
Okay. Thank you.

Sandra Braunstein:
Okay. Thank you. We're going to start the questioning, but this time, I'm going to start at the other end.

Patricia, do you want to start the questioning?

Patricia Garcia Duarte:
Sure.

Thank you, everyone, for your presentations. I'm curious in hearing more from you on how do we capture the credit-score data in a consistent basis going forward, when it's not underwriting criteria even? Should we collect something or not? So if you guys will – it could go to all panelists.

James Zahradka:
I'll just say that I think the important thing is, if you're prefacing this question as to whether it should reported whether the lender uses it or not, I think what we're interested in is, what are they using, really? And if it's not -- if that particular lender doesn't use a particular form of credit scoring, I think it's a waste of time of everybody's time for them to report it. But I don't have a great insight into, technically, how you do it. I think this idea of bans of credit-worthiness is

worth considering. Percentile – although I think they should be fine enough, granular enough so we can really figure out when there's a major difference there. So the apples-to-apples issues comparable across lenders. And I think my colleague will have some more insight on that. But I don't want to put you on the spot, or maybe I will.

Elvin Wyly:
I guess there are -- the two key issues here are, are we trying to get insight into the underwriter's decision-making process? The answer is yes. Are we trying to get insight into the credit qualification of an applicant? And the answer is yes. The goals to achieve those two separate – the processes to achieve those two separate goals might differ, but if a lender has not used a credit score to make a decision, that in itself is useful information. Having said that, we do need to get information on credit-worthiness of applicants that is comparable, as comparable as possible, across different institutions. So my preference would be to try to get credit-scoring information, whether or not lenders have used it, because most lenders can get access to that information and look at, even if they don't use it. But then if they don't use it, have a field that's specified or have an option in that field that says, "Was not used in a credit decision."

Patricia Garcia Duarte:
Okay. And I know we want to make sure that the information is useful and is meaningful for purposes of conduct, so if we are going to start collecting the credit scores, how do we make sure that it's consistent? So, thoughts on that.

Keith Ernst:
I think Elvin was a little bit -- and it goes back to some of the issues raised in the first panel. I think there are certain fields within HMDA where integrity within lenders and across lenders are both clearly paramount for every prospect to the field. But credit score -- I think Elvin's right to say there are two different reasons you want to understand credit scoring. It's paramount for underwriting purposes and for pricing purposes to have consistent measurement within a lender. So a lender itself may use multiple versions of credit scoring, and I think that's a very important issue.

But I think we should set aside -- you know, things like where borrowers fall within a potentially lender are useful, but I don't think we should be prepared to jettison yet the notion that we can identify opportunities to get consistent measurements across lenders, because I think one of the values of a data set like HMDA is to provide information not just to researchers such as a market, in general, about its performance and about opportunities for increased competition. One of the primary uses of HMDA that never gets discussed is sort of trading information between lenders, and understanding, you know, what is going on in transparency that takes place in the marketplace. So I'm not ready to say we should give up on that purpose yet, but I think we should recognize that you're asking about credit score for two very different reasons, and it might yield more than one strategy for reporting, ultimately.

Preston DuFauchard:
I have somewhat of a different view, which this is what I alluded to in my prepared remarks about credit scoring. I mean, I think the whole purpose of this is to look forward and not look backwards. And I think it would be a mistake to insist upon a use of the single-credit score, or

even a band of credit scoring today, and have the credit model -- credit modeling agencies come out with an entire new category, because I think that within the credit modeling agencies, there has been a recognition that the credit scoring hasn't really captured consumer behavior during this period of time. And so, that needs to be addressed even as an industry standard. So I think, you know, maybe not giving up, but from a perspective of a bank, if the loan is made, there's already been a determination that the borrower is credit-worthy. They may use the credit score in an objective verification that their decision is accurate, but I don't think credit scoring should be sort of at the fulcrum of, you know, what we're using this data for. And it really does, from my perspective, make comparing borrowers across different borrowers much, much more difficult, because there is not a consistent framework to use. So credit scoring -- I'm just not that persuaded that that's an important data element to include, but I'll defer to the other panelists on that.

Alexis Iwanisiw: I'd actually like to add something to your point as well, that it may well be that we need two separate measures of credit score to address those two issues, and then there's a role for the Fed to play in perhaps receiving the raw credit score data, and then aggregating across all borrowers to give an actual objective percentile -- how credit-worthy is this borrower compared to borrowers as a whole, not compared to borrowers within that lender, because if lenders are using subsidiaries to separate out -- okay, this is our subprime subsidiary, this is our prime subsidiary -- if you do really well within the subprime subsidiary, does that mean it's good?

So it's important to have an objective measure. That said, it's also really important to understand the underwriting criteria that lenders are using, and at that point it might make sense to have a within-lender banking that takes into account the well-known cutoffs of, you know, 720 or 620 for credit scores, and how the lenders use those to make their decisions. So that might be a role for the Fed or the bureau to aggregate and give out a less-specific measure of that data.

Patricia Garcia Duarte:
Okay. Thank you.

Kathy?

Kathy Rodriguez:
Well, I did want to say that from a banking perspective, I think that getting that credit score is used for lending analysis, and it is important, a key variable that we use, both in credit decisioning and pricing.

So I think it should be -- in that context, we should gather it, but it would be tough if the credit score that we use is different than, say, Wells Fargo or Chase uses, and how do you use that to compare for different institutions when it is different? We do have to provide, under the Fair Credit Reporting Act, a credit score -- the credit score that was used in the credit decision to the consumer so they know the credit score that we are going to be using, but I think it's a tough thing to look at different institutions, if we're going to collect it. And how do you compare it if it's a different credit-score model?

Preston DuFauchard:
Can I just make one more point on this specific issue on credit scoring? I have seen credit scoring used as a way of dividing tranches in private label securities. And to the extent that the private markets do that -- that is to say, price different tranches of securities based on credit scores -- then it may be that you can just use those credit scores or, frankly, those tranches, as a way of a proxy for comparing borrowers against one another, but to the extent that's not used by the market for that purpose, I'm not sure what value that is.

Patricia Garcia Duarte:
Thank you.

Sandra Braunstein:
Jane?

Jane Gell:
I'd like to hear your views on reporting data on reverse mortgages. Here, we have a very complex pattern of a potentially vulnerable population. Seems to be a bit of risk involved dealing with something that's out there now, which I'm sure is moving into the private sector. Do you think that it would be worth reporting data on this product?

Preston DuFauchard:
Yeah, definitely, and I think you're exactly right: It's a vulnerable population. And we've enacted a number of consumer protection laws in California regarding reverse mortgages, such as the need to make sure you see a counselor before the mortgage is taken out, and some certification that that is done. And we see that there is an increasing use of reverse mortgages now. I believe it should be a broadly defined -- not a data element, but maybe broadened scope of data that's reported in HMDA. What do we do with that once we collect it is the next question, and I think we're not there yet because we don't have any information, frankly, about reverse mortgages at this point. But I think once we start tracking data, we'll know what kinds of things will be important to pick up on.

James Zahradka:
And, also, California hasn't been a leader in enacting protections in the reverse-mortgage area. And this gets to a little bit of a side point, but the importance of state law consumer protections, and one positive aspect of Dodd-Frank, of course, is that it really cuts the preemption authority out there and makes more -- I think more possible for these laboratories of good law, like California, to have their laws to protect consumers, so as you go forward, that's a bit of a side issue. But I'll say that one of California's reforms was to require translation of the loan documents, as other mortgages are required to translate, if the transaction's negotiated in a non-English language in one of five non-English languages most spoken here in California. And we think that -- as we saw with the subprime and as we're seeing in the loan-mod context, there's a very good chance that non-English-speakers are being taken advantage of; seniors in particular. So I think that we should definitely include reverses, we should include the language information in there, and I'll go with what the Commissioner said on that.

Elvin Wyly:

If I can offer a comment here.

As a famous demographer pointed out, "Demography is destiny," and this is one of those cases where we really need to be prepared for the next wave of market innovation on this. Actually, the class, race and, gender and age are cumulative, not additive, and so, with each element added by the Dodd-Frank, Section 1084, it allows us to measure and document processes that we know are going on, but thus far, we've only had anecdotal information on it. And so, researchers who've wanted to study age and gender interactions, for example, have had to piece together different data elements. And the picture that emerges is not pretty.

Some of the work that I've done on this, drawing inferences on the one hand from HMDA and, on the other hand, from some of the work of the National Mortgage Data repository, which has its own issues and coverage issues, but it indicates that elderly African-American women, for example, are not treated fundamentally differently once they get into the subprime market. What makes them different is that they are far more likely to get into that market in the first place. The first parts of that statement where I talk about age, gender -- and often, you're talking about widows -- you can infer that from the National Mortgage Repository, but then you can only do race and gender through HMDA, but now we'll be able to do age, once Dodd-Frank is implemented. So I think reverse mortgages are crucial and allow us to see market development.

Jane Gell:
Thank you.

Kathy?

Kathy Rodriguez:
Well, actually, I thought reverse mortgages are required to be reported if it's a closed end. If it's an open end, then that's where it's optional.

Jane Gell:
Well, then they would have to be closed since typically, one is used for home improvement?

Kathy Rodriguez:
Correct. So I don't have any comments regarding that. We don't do reverse mortgages.

Jane Gell:
Oh, that's great.

Alexis?

Alexis Iwanisiw:
I'd just like to add, that as everyone's saying, it is an area with a lot of danger for seniors, especially after so many people have been in trouble with their mortgages and are looking for a way to resolve that, and fall victim to those practices in reverse-mortgage lending. They should add a data point that it should definitely be reported if there are annuities sold along with the reverse mortgages, and what costs are associated with those as well.

Keith Ernst:
You know, I think in my comments I suggested that, really, the status or the test for inclusion should be whether it's a home-secured loan. I think over the last decade, the buildup to allow subprime prices was home equity loans and open-end loans going unreported, and so, we would certainly support increased reversed mortgages under that sort of agreement.

Jane Gell:
And Preston?

Preston DuFauchard:
Yeah, you know, I do agree that reverse mortgage should be included. I don't have any --

Jane Gell:
Well, I liked your comment about the (inaudible.)

Preston DuFauchard:
Well, yeah, it really is a question, from a policy perspective, of promoting homeownership. Are we promoting homeownership for the purposes of creation of wealth and transferring wealth, you know, among generations, or is the nature of the conversation going to change so homeownership is a way to create wealth, preserve wealth, but supplement Social Security? And to the extent that's no longer available for our aging population. So, again, it's a policy question on the way you talk about the value of homeownership, but I think everyone should go into the process when they originate the mortgage at the time they buy their home, as a way of seeing, you know, what they're really getting into -- the possibility that they've developed a sufficient amount of equity that, you know, their home would be able to be used as the way of a reverse mortgage.

Jane Gell:
And that's why one-on-one counseling would be available.

Keith Ernst:
Which brings to mind one more thought. I mean, if you think about HMDA's purposes and how HMDA has evolved over time, you know, when HMDA first started, it was very much a matter of "Is credit available?" I think over time it increased the appreciation for not just the presence of credit, but for the quality of credit. And if we think about HMDA's first purpose being, "Are the housing needs of the community being met?" -- I think adding reverse mortgages would help provide both a quantity measurement that's not there presently, at least not in identifiable form and, certainly, not reflecting the full range of the mortgage type, but also to give opportunities, as Elvin is asking, to evaluate the quality aspect as well. So it really does go to the fundamental purposes of HMDA.

Jane Gell:
That's been very helpful.

Allen Fishbein:

Yes, thank you.

I'd like to return to the question that we spent some time on in the first panel, and that's about risk elements that are reported for HMDA purposes, to give a sense of the decision-making that was taken into account by a lender. You know, we've talked some already about credit-scoring information, which is mandated by the new law, but I want to turn back to debt-to-income ratio. We had some discussion about the fact that lenders use different approaches in determining what income gets factored in debt-to-income ratio. Does anyone have an approach or suggestion or advice to us on how those debt-to-income ratios should be constructed for the purposes of HMDA reporting? In particular, I'm interested in the question of, Is there a way of doing it that will not only provide a consistent data within an institution but perhaps would be useful across institutions?

Don't all go at once.

Preston DuFauchard:
Well, HAMP is already doing that, for certain. I mean, they are providing debt-to-income -- I assume they're normalizing the data that they're reporting. When they talk about the income ratios, and they talk about front end and back end debt-to-income ratios -- and I think the threshold is 55 percent, where you're required to see a counselor.

So maybe Treasury is working on normalizing what they mean by debt-to-income when they're talking about what they are reporting for HAMP purposes. I don't know about, you know, comparing institutions, you know, at the time of the origination, but perhaps during the loan-modification process that we're seeing with HAMP, there's a vehicle that could be considered.

Keith Ernst:
I mean, I'll say, we work with HMDA, we also work with private proprietor databases, and I don't think there's any field that is more problematic than a debt-to-income field for coming up with a consistent measurement. I think many people have been challenged by it. Income itself -- again, this was a question of the first panel. Income doesn't mean the same thing. Debt doesn't mean the same thing to lenders, who the lender is; and I think in this instance, it may be more important to focus on the principle of what is trying to be articulated with debt-to-income when the data comes out, than to have one measurement that is absolutely consistent.

I think there's a challenge. On the one hand, you want good information. We certainly want it to be internally consistent. To the extent possible, we want it to be externally consistent, but there's a concern there, if we are overly constrictive, then we could wind up constraining how data is actually used and evaluated within lenders, and potentially obstruct access. I think this may be an instance where more weight is given to the principle of what's trying to be evaluated but, ultimately, at the end of the day, comes up with one ironclad definition. I think it would be very, very challenging to do it.

Allen Fishbein:
Should the income -- should the principle income data be relied on by the lender in making decisions?

Keith Ernst:
Certainly, whenever you're talking about fair-lending evaluations, what you are primarily concerned with is how the lender treats the data in its own subjective manner; different lenders may evaluate procedures differently. So for fair lending purposes, that certainly would be the primary concern. If you look at HMDA's other two purposes, you may draw a different conclusion and you may wind up where Elvin was on credit scores and say, "You have different purposes going on here, and you may need multiple solutions." I think on debt-to-income, finding multiple solutions may be harder than it is on credit scores.

Allen Fishbein:
Anybody else have something to add on that?

Elvin Wyly:
If, indeed, lenders are using a very different approach on this, and they are, then it may very well be difficult or impossible to come up with a single objective measure that is comparable across all institutions. But in another context, James made a brilliant point about the issues of some of the risk measures that we need to have in HMDA, and that's -- the concern is not only with quality of the information – you want the best quality of information you can get – but there is also an important story in the fact that the institutions are using certain information. So, on the issue of credit scores, for example, I would respectfully disagree that credit is not the fulcrum of the issue, because the lenders have told us specifically that it is the fulcrum of the issue, because they say this is what has led to the exaggerated claims of discrimination -- the fact that we can't talk about credit-score information. So what we have to get away from is seeing the data as a perfect reflection of an external reality. We want that to be true, but it's not. What really happens is, the data becomes an enterprise and a conversation in and of itself. It has certain aspects of it that are performative. It creates certain realities. It creates this culture, this infrastructure, this fair-lending infrastructure, this tradition now of public accountability. So I'm not sure we're going to get a perfect debt-to-income ratio, but we do need to try all of these elements to get some information.

Allen Fishbein:
Kathy, you looked like you wanted to say something.

Kathy Rodriguez:
Well, no. The only thing I wanted to say -- Bank of Hawaii is a very conservative bank, and we do, as I mentioned, sell most of our loans on the secondary market. We follow our investor guidelines, which provides us guidance on the types of income we use and how we use that income. And I think it should -- if there are other institutions that have portfolio loans and they don't follow that same guidelines as Fannie Mae, we do. Our portfolio loans -- we follow the state guidelines as reflected in our investor, Fannie Mae. Back-end ratio DTI, I always thought was traditionally what all institutions use as their DTI, so I just wanted to point that out, that there are some guidelines in our investor guidelines that we follow.

Sandra Braunstein:

Okay. I'm going to turn to a different topic. This was kind of raised earlier, but we didn't go into it as deeply.

When HMDA first started back in the '70s, obviously, the main goal was access to credit, looking at access to credit, and since we know what happened in the last few years with the financial crisis, in some ways, the emphasis has shifted a bit. Although I do believe we may be coming full circle at this point, again, on access, but there's also a lot of concerns about quality of credit and that, in some areas, there was too much credit available, but it wasn't very good credit. So with the concerns about so-called reverse redlining out there, and that there was too much bad, irresponsible credit going into certain neighborhoods, I would like to know, are there ways or are there data elements that we should be collecting in HMDA that could help us understand that and see that much faster in the future to prevent that kind of thing, or at least to get a better handle on that through data collection, as to what the quality of equity is going in and to try and address some of those reverse redlining issues?

James Zahradka:
So I would just say, I heard articulated to you by one person that, basically, the product is not a plain vanilla product. We should want to collect data about the non-vanilla features, I guess, for lack of a better term. So I believe that Dodd-Frank calls for reverse amortization to be collected. That's good. I don't know if an option arm is, if it's an option to be reverse amortizing or not, how that necessarily plays into that. That could be an interesting thing that should be killed out in regulation.

But I think that -- I guess that would be the baseline is to look at, is this a plain, little loan; if not, what are the exotic features to it? And create the necessary data fields. Now, this is going to require maybe some more nimbleness on the part of the regulators to get – you know, the new flavor of the week might change, and the data fields might get obsoleted pretty quickly. So that will be another option, is nimbleness. I know that's not in the federal government's forte in a lot of ways, but maybe the new bureau can make a point of (inaudible) process to really address that in a practical way. And I also think that, again -- and I know I'm doing this a lot -- the language issue is huge, because, again, we have a proxy for national origin and language proficiency. So, as far as identifying the communities you're talking about where the bad credit's going in, if we see particular exotic loan going in disproportionate ways to folks from a English proficiency, that should be a red flag.

Elvin Wyly:
I would say that there are a lot of complicated things about this, but there are some things that we have to remind ourselves we know how to do. We know how to identify bad things that are happening out there, and the history should really -- I'm in awe of the history and the circles that we keep coming back to on this. I'm reminded of the descriptions in the book in 1972 or 1973, "Cities Destroyed for Cash." These types of scandals of using regulations, places, and people as an opportunity to make profit and walk away is as old as the hills. But I really like the idea of since the plain-vanilla option was dropped in the Dodd-Frank requirement as an option that consumers would be allowed to present, then it should kick in the data elements, that if it's not a plain-vanilla mortgage, then we need to know why, and we need to know as much as possible about what's that all about.

Sandra Braunstein:
Anybody else want to comment?

Keith Ernst:
I guess I would say, when you talk about the quality of the mortgage, there's three dimensions. There's cost, sustainability, and, ultimately, outcome or landing point. I think with the changes mandated in the new statute, we'll get a lot more information than we've had on cost previously. There may be more to do, but there's a lot more information.

On sustainability, the new legislation requires HUD to develop a database on foreclosures, so there may be opportunities to research into that. On the third point, we haven't had much success yet, which is transition. You know, during the subprime boom, the Center for Special Lending, and many others, were quite critical that subprime loans were being originated mainly for fee income, and borrowers were bouncing from one loan to the next and, ultimately, we now see being in place more and more unsustainable loans. And to the extent that the new information of HMDA will allow anybody who has access -- the Federal Reserve staff -- have access to the Parcel I.D. number to see those transitions in some details, and to share that information, maybe not directly through the Parcel I.D. number itself, but to share the transition, we'll know much more about the quality of the data. We'll be able to infer something about the quality of the loans being made by the outcomes themselves, the non-default available. Are borrowers taking more expensive loans but then refinancing it into a prime loan two years later, or are they taking more expensive loans and finding themselves in another more expensive loan?

I think that's what the concern is.

Preston DuFauchard:
I just have two points in response to the question. One is, I think the bad loans were highly leveraged and one metric for leverage can be loan-to-value ratios as a proxy for "Is this a sustainable loan? Is this a good loan?" But the other observation really has to do with the nimbleness of when we get the data, is there something we can do about it? That, I think, is -- it's really as important a piece of the question as you raised, as what is it that we're seeing? Because I think if we are capturing the data but then it's -- you know, it's year and-a-half, two years before the data comes out -- and we're seeing things that happened two years ago, it may be too late for the regulators to devise an appropriate response.

Sandra Braunstein:
Okay. Just on a follow-up question -- well, not totally related, but I wanted to give Preston a chance to talk about what he wanted to, but I do want to ask about scope of HMDA collectors, the people who are collecting HMDA data. Should we expand that? Should brokers be collecting HMDA data, even though they're not maybe making the loan itself?

And also, I know you wanted to say a couple things about SAFE, which I promised that I would let do.

Preston DuFauchard:

Yeah. And it's actually a perfect segue, so thanks for doing that. We are just implementing the SAFE Act, and I don't have a way, today, of suggesting how we might be able to use the information that we are collecting to perhaps feed into a HMDA database, but I think there is something there that may be useful. And in terms of who's collecting or whose reporters, perhaps new reporters -- you know, the Bank of Hawaii doesn't make any reverse mortgages -- maybe we need to look at, you know, who is making those reverse mortgages, and making sure that they are reporters in the HMDA system, because it may be that the traditional banking financial institutions are not interested in reverse mortgages for whatever reason, but making sure that those folks are captured, so perhaps brokers should be reporting information regarding the origination of the first mortgage.

James Zahradka:
And I'd like to play off the SAFE Act on this a little bit, because there is this provision in there that there's a, I guess, a unique originator identification number required under SAFE, so that would allow us to identify a broker. And, again, I guess this assumes that making every single mortgage broker a HMDA reporter – maybe that's a nonstarter. I don't know. We do have a lot of very small shops doing this, and I'm not insensitive to the regulatory burden. There have been a couple of thresholds proposed -- 25, 50 a year, but if not, I think maybe we could play off of the kind of bringing these two groups together, and maybe there can be a field, in HMDA, with the SAFE originator number in there so we can track broker performance.

Because, as I say, we saw so many instances of folks who were taking advantage of the folks in their cultural community, and really, obviously, selling the loans that were vastly inferior, and that should have been kept and could have been caught, were this type of information kept. So, one way or another, there's several ways to skin the cat, but I do think brokers need to be tracked somehow.

Sandra Braunstein:
Would anybody else like -- Keith, you look like you want to say something?

Keith Ernst:
It seems like FHA is moving in the opposite direction, so FHA -- they told lenders, "We are no longer going to meddle in the affairs of individual brokers. If you want to do brokered FHA transactions, we are going to hold you accountable for that." And to the extent that this question is motivated trying to ensure that we have good quality data, it may be worth looking at that sort of an approach. I think, certainly, we want information on the channel, and where the loans are being originated from. I think that's very useful. I wonder about -- it seems like a potentially enormous challenge, for whatever institution, would be receiving those reports do the quality control necessary. It's potentially a very large number. I do worry a little bit about that.

Sandra Braunstein:
So you're talking third-party due diligence?

Keith Ernst:
Well, right. I mean, that's essentially what we have now on reported fields. And I mean, you know, if there's a question about, you know, whether you've been there, I wonder if it's more

appropriate to work with the current reporters to improve the usefulness of useful data coming through that channel than to (inaudible) to the challenge and get that adherence.

Sandra Braunstein:
Anybody else want to comment on that?

Okay. Allen, back to you.

Allen Fishbein:
That was a lot of different roads to pursue. I guess I want to go back to the credit-score information. There's a recognition, I think, across the panel, that sensitivity is there to possible privacy concerns. I wanted to see of some of the options that people have suggested, if you have views about them, and just coupled to deal with this might be -- one approach would be a roll-up from the loan-level data, so that it's not in the loan-by-loan form with regard to credit-score information as HMDA typically is now.

Another approach would be, you know, some different data sets which might be provided to different categories of users; researchers, for example. I know there's been certainly reference to the Census Bureau and how it provides access to information, has a confidentiality protocol that it uses with respect to researchers getting access to highly sensitive information. Are there views that any of you have about what would be the preferred approach, or are there other approach that I haven't mentioned that you want to mention? Who wants to start?

Elvin Wyly:
Privacy is crucial, but we often get tripped over in the language of public-private, because privacy refers to people's interest in controlling information about themselves, but all of us in the room right now have information out there floating around, about us, that we don't have any choice in. That's extremely profitable.

The front-page piece on the Wall Street Journal yesterday, talking about how geography is going online, the link of ZIP Codes, to be able to identify people and certain habits, and this has been going on for a long time. My single key issue here would be, keep as much of this as public as possible, but public doesn't necessarily mean that anybody can use it for any purpose. It is appropriate if there is the possibility of identifying individual people of putting encumbrances on what people are allowed to do with the information. So what we are really concerned about with disclosure is that people will be victimized or targeted, either for identity theft or for the next wave of innovative scandals that various parts of an industry might develop. That's what we want to protect against.

The Census confidentiality protocols are important for their principles but not for their procedure, because it takes a lot of planning ahead to do that. And I think the power of HMDA is that private, for-profit corporations have limited power in controlling it. That's what makes it powerful. It allows a public conversation. No, it's not in real time. We know that there's this delay between the data and its disclosure. But the fact that powerful institutions have to provide information, and they can't hold it, or at least in the second wave of HMDA. In the first wave, it was tightly controlled, but since the 1989 amendments, you and I can get access to this

information and we can work with it. We need to preserve as much of that as possible; but there are several ways of taking the information that is going to be added under Dodd-Frank and trying to add privacy safeguards, but still somewhat useful information.

So, for example, parcel number. Parcel number is not useful for most of us here, because we're not trying to target people for abusive products and stuff. We don't want to go track down somebody on the street at the particular address. Okay? What it's useful for is what it might possibly deliver. So, having the parcel information reported by HMDA reporters is very important, and then the Federal Reserve directs the FFIEC to take that parcel number and create a synthetic variable out of it, so the number of loans issued on that parcel number over the last five years, or the most recent calendar year that that parcel had a loan on it. That's useful information for everybody, and it could be issued at the loan level, but it wouldn't identify a particular address. And there's a whole bunch of other approaches that can be used like that, to preserve the utility of the information, but also to increase anonymity and to ensure anonymity.

Keith Ernst:
Yeah. I would -- so, first, I want to echo the notion that if some sort of restricted access were set up, I think it should be as a secondary function; that ultimately, having a broad data set available is a primary strength of data available, so people coming from a diverse set of perspectives. I think that's what -- I'll sort of shift directions a little bit and say at the same time, I think privacy concerns with HMDA are real, and they're more pronounced with the additional data. The richer the data gets, I think the more seriously the privacy concerns are presented, and so, I think some considerable thought needs to go into this. There are multiple ways to do it.

I alluded in my remarks, I think, you could look at a situation where you identified what are the fields of concern that might be mergeable with some other publicly available information, and then decide what is the risk called. If we have ten borrowers who are identically situated, is that enough? Is three enough? Is 15 enough? -- before we start to feel like, you know, you're eclipsing the ability to actually identify a borrower. And then you could -- you could censor a rolled-up geography, for example, to make merging virtually impossible, and you could complement that with a secondary release of full geography information. HMDA is geography, it is Census-tracked. It would be a shame to lose that completely, and I think that would be unnecessary.

I think there are a number -- I guess in short, there are a number of thoughtful ways to address it, and I think one or more of them will need to be taken up as HMDA revised to include this information, but that in doing so, I agree the principle should be, for maximum closure, limited by privacy concerns. But I think thoughtfully addressed, adding these privacy safeguards for HMDA in ways that haven't been there to date could also free up and make it easier to collect information that is essential for really knowing HMDA's base purposes, because there's certainly a trade-off there and a balancing that needs to be done. I guess the one part I forgot to mention, I think that in a number of fields, more blurring could be done. Right now, it is reported at thousands of dollars. Organization has merged data, we find, even at thousands of dollars, you often wind up with duplicates that will prevent (inaudible) but if it were made 5,000, it would be that much harder. And I don't know, qualitatively, that much is lost between knowing that a loan was issued for $43,000 versus $45,000, so I think more of that could be done as well.

Preston DuFauchard:
I have a point on this privacy issue, and this gets back to the point that Orson was raising. This information really is available in the private market, to the extent that loan tapes are made available to the Statistical Rating Organization for purposes of securing mortgages, and I just don't know what the protocols that they have developed around preserving anonymity are, but it may be a useful inquiry for us -- for the Fed, perhaps to make of the investment banks as to how they've developed protocols to preserve anonymity around loan-level details they have on the loans they received from the banks. And that may be one way of getting into a protocol for preserving anonymity.

Elvin Wyly:
Well, the way they preserve it is you'd have to buy it. You can't get access to it. What we're talking about here is a data set that industries can't control, and that's why privacy is being raised by an industry that needs personal information in order to survive. That's the concern, that this information will go out there, and the industry can't control what is said.

Preston DuFauchard:
But I'm sure that there are confidentiality agreements and bonding requirements they use to make sure that their employees aren't going out and divulging private information.

James Zahradka:
I'll just make a point on the property I.D. number, that I think it was mentioned earlier that -- and I don't know if this term was used, but this practice of churning -- we saw a lot of that during the subprime boom, for lack of a better term. And we hear stories about seniors being contacted, "Okay, it's time for your yearly loan review."

And the loan-review goes, "There's a refi," or the equity gets sucked out.

So without a -- and it obviously shouldn't be the county's ATM that we use for this, right? So it has to be a way of changing to something else, identifying but not, you know, for the purposes of that we want to be able to track churning, but not going to let you find, you know, who the individuals are. So I think it's critical that we have an ability to track that really pernicious practice.

Jane Gell:
One for James, very end. We've been talking a lot about language, and I was also a reporter for years in the field. Would another approach -- rather than having HMDA fields that we talked about, the language to which the language to be negotiated, could we approach it through the disclosures themselves? Would that mirror the California law, to require the disclosures to be the language in which the language was negotiated?

James Zahradka:
I think that's a very important aspect of that, and that was -- Kevin mentioned earlier that the most recent proposed reg asked for input on that, and gave quite a bit. So I don't think that's a substitute, though, for tracking it this way. One issue -- we saw a lot of noncompliance with the

California law, unfortunately, and another is that, even if you provide the disclosures, that doesn't mean you're not issuing some inferior mortgage products, and that still should be tracked.

Jane Gell:
So you think they would be complimentary?

James Zahradka:
I do.

Patricia Garcia Duarte:
I have a new question, something we haven't covered yet, and it's preapproval programs. Should the rules for preapproval programs be changed, and if so, how? Is that useful information currently -- in finding out what is being reported and currently preapproved?

How about the users of the data, what are your thoughts on that?

Keith Ernst:
We have never used a preapproval field in HMDA. That's not to say it doesn't have value, but CRL has never been done an analysis based on that field.

Sandra Braunstein:
Is that a field that's very mixed?

Alexis Iwanisziw:
I know in the Atlantic area, people who spoke up about it being useful, but I have to admit that we have never used it either, so I can't speak to this utility.

Patricia Garcia Duarte:
Has anybody used the data?

Keith Ernst:
You have to ask the panel of researchers what variable they would give up. I mean, you mentioned that right now, access to credit seems to be more of a (inaudible) and I think that's absolutely true. So if you're going to them -- I think it's hard to recognize in one breath and say, "Rather than improving, the variables, we should get rid of them."

I mean, certainly, I think now more than ever, in the market coming with an offer for property that shows that you have a reasonable prospects or reasonably certain prospects of being approved for mortgage, is integral to getting access to homeownership, and especially on property available at attractive prices, and so -- at least relatively so. And so, it's hard to pivot from that and to say, "So we should lose this field. It feels much more natural to say, "We should find a way," because it is a real feature of the lending market than an important service lender provides towards the housing needs of the community to provide that service; and so, to say the answer is jettisoning it rather than including it feels hard.

Elvin Wyly:

I used the preapproval field a number of times. I haven't really focused on it a lot, because it didn't tell me anything that really kind of surprised me, and so, it wasn't central to my story line. But my general sense is that one of the things it measures is a certain degree of selection bias in people planning ahead for a particular transaction like this. So, depending upon what type of research you're looking at, which stage of the transaction, it can be useful, because it is one of the only fields that allows us to look outside of the transaction itself. We have these tiny views of what happens before a loan goes through preapproval; and then we have these tiny views of what happened afterwards in securitizations, only if it happens in the same calendar year, and most of our information is about the transaction itself. So there are economists who are really interested in the selection of this. I think it would be more important for them. I've used it, but it hasn't told me a lot that I didn't kind of already suspect.

Sandra Braunstein:
Okay. So I'm going to take the chair's prerogative to ask one last question, and then what I'm going to do is give each of you a chance to make any last, very brief comment on the things we didn't discuss that you want to put out there.

The last question I have -- and I'm only asking this because I like saying the term, but in Atlanta, there was a lot of discussion -- and it didn't come out on the first panel, or here, and I was surprised, especially here -- about the fact of the form in which we use our data now, and the lack of a "gooey" interface to make it more useful in terms of -- and I know in Atlanta, it was a huge topic of conversation, and it didn't -- I figured with people like Keith, and others, it would have come here, and it didn't. Is this a big issue for most of you who use the data all the time, in terms of making it useful? I just like saying the word "gooey."

[Laughter]

Alexis Iwanisiw:
In terms of -- I think you might have picked this slightly nerdy panel here. We really do like the data. It's fine. We'll deal with it.

The one thing that I would find extremely helpful in improvements to how the data is presented is to be able to bill multi-lender or multi-county data requests, because right now, when you pull it from the online system that exists, you're pulling for either per county or per lender. It would be nice to be able to do that in one fell swoop. But in terms of ease of use, I personally don't find it too bad. I think for people who are less familiar working with data, it might present a challenge, and it might really broaden the scope of people, who are able to use HMDA data effectively to build an easier to use system.

Keith Ernst:
I mean, for us, I think I would echo that. You have a panel of sophisticated users who are using individual record information, cutting and slicing it every way they need to, but I think we need to all recognize that are many users of HMDA data who don't have literally the resources available to do that.

And I think giving some thought and attention to that is important, and keeping it up to date, over time, is important, because those needs change over time. And so, I think a lack of comments on it maybe come from us maybe being a little too focused on our own situation. It is important. There's tables and the options that are available, in some ways dictate, for many groups, what they're able to learn from the data, and so, it is a useful and valuable service that the FFIEC provides, making those tables available on this website. And again, I just think you asked -- you've got our perspective on at least how we use the data, how the data is used in total.

Sandra Braunstein:
We won't tell the Atlanta people you said you're more sophisticated.

[Laughter.]

Sandra Braunstein:
Did you want to say something?

Elvin Wyly:
Well, let me emphasize, I'm not more sophisticated than anybody. The kind of work that I do with HMDA, I remember George McCarthy of the Ford Foundation once commenting, describing this particular kind of search, and he was saying, "You know, a motivated 10th grader could do this."

And I'm like, "You know, well, 10th grade was a pretty good memory, so, yeah, let's do this."

What I would say is that I work with raw data. I think a lot of us worked with the raw data, either producing it or consuming it, but because it's public and because there's no legal restrictions on it, I make available all my code for anybody -- you know, students anybody else who wants to see how I crunch the numbers. And so, there is an important public aspect of this that we cannot lose sight of. So I fully support the idea of making a wonderful interface that captures the changing needs of all the HMDA users out there. What I would beg and plead -- and in the transcript, please put this in big, capital letters -- do not subcontract any of this, because then we're going to start to get into using the profit mode as a way of governing access to the data, and the companies will say, "We have value added here, so we have to have some restrictions and we have subscription-based forms and all sorts of other things."

Keep this public. Right now, the FFIEC website is a treasure trove, and anybody can go, look, and learn a lot, on everything, and learn an awful lot. We need to protect that tradition. This is a public resource. Be very careful of privatizing any component of that. That's all I would request.

Sandra Braunstein:
We'll pass that on, because, actually this, the whole HMDA keeping of the data will pass to the bureau when things transfer.

James Zahradka:

I'll just say that I've got two separate pieces of feedback that the data should be more accessible, and that's, unfortunately, as detailed as I got. And I'm assuming that a -- these are from two attorneys, nerds for sure, but not the same type of nerds we're talking about. They're nameless, so I can say this.. So I think a gooey where, you know, a layperson could get at it, that's a wonderful point I almost made about public accessibility.

Sandra Braunstein:
Okay. Thank you.

As I said, I will give you each -- first, let me just check. Any other questions from the panel? Okay. I will give you each -- please, just take a minute, minute and a half -- any last comments, anything we didn't ask you that you're absolutely burning to get out in the hearing, and we'll start at the other end with James.

James Zahradka:
Well, I didn't get -- thank you very much for having me here and doing this, so thank you for doing that. I think I got most of what I wanted to say out. I will say that a couple of other elements that people suggested to me to capture are the reserves in assets of the borrowers, somehow capturing that. It's an important underwriting criterion. Also, the origination channel, and the type of the originator compensation. Now, we know we say YSP, "R.I.P.," after Dodd-Frank. That's a wonderful development, but there are -- I think there are creative ways that they will tell you are forms of compensation that feel like that, so that's an important thing to try to capture. And I also just want to reemphasize that we are seeing such an influx of need around help on the mortgage-modification front, and really anything that can be done to ensure that the services are doing right by people, it's really an important thing that we should try and capture, and it may be difficult, but we should all try to do that. So thanks again.

Elvin Wyly: Thank you for this opportunity.

Let me offer a new suggestion, possibility here. Distinguished colleagues on the first panel, Mr. Courson, Moskowitz, and Seligson, emphasized that there's a story behind every loan, and I agree. Every semester, I get the round of course evaluations from my undergraduate students, and it has two components. It has a quantitative response to all the questions that the University decrees that we ask, and it has an open-ended answer. And my all-time favorite student evaluation was, you know, on a form that was written a little bit vague, and the last question said, "Is there anything that you'd like to comment on?" And the student wrote, "I like ice cream with my waffles." And I thought, that's really fair. We ask a vague question, we get a vague response.

But I want to be serious about Orson, Moskowitz, and Seligson's point that said, "There is a unique story behind ever loan and every transaction." Well, it will require very little effort to add a completely optional, open-ended text field. The only price is gigabytes of storage, and whatever the lender says, it would be interesting to see what they say, if they say, and it's totally optional, and that would be very interesting.

Keith Ernst:

That's part of where we're at, aren't we? You can add any other information you want.

Elvin Wyly:
Well, for the whole submission, right?

Keith Ernst:
You could tie it to whatever you want.

Elvin Wyly:
Yeah, but if you could have a field for each record, and some lenders might say for a whole bunch of them, they'd have a template. They might tell a story. Well, fine. Really interested to see what the stories might be.

Sandra Braunstein:
Thank you.

Kathy?

Kathy Rodriguez:
I don't have anything further, but to say thank you for letting me participate in this.

Sandra Braunstein:
Thank you.

Alexis?

Alexis Iwanisiw:
Yes. Thank you again for having all of us and having me here to speak. The one thing I'd really like to emphasize is just that as much data as possible should be kept at the loan level, made publicly available to as wide a swath of the public as is permissible, given privacy concerns, and that there really has been a change of the data all along, and it's really important to maintain that going forward and the new decisions forthcoming.

Keith Ernst:
I'll talk about two ideas I heard today that I thought were particularly interesting, one idea that's not been discussed. I think the idea of capturing the language in which the transaction is negotiated is very interesting and, potentially, a very important one. I think recognizing information that identification reported to a loan officer's eyes is different, is useful. I don't think it would be necessary to lose that. It may be possible to add a field indicating that that's how the information was gathered. It might be useful to do that. And one that didn't get discussed today at all but was discussed quite a bit a few years ago and, I imagine will be quite a bit going forward, is the notion of capturing when the borrowers become homeowners for the first time, and that this is very different transaction. Borrowers have very different experience coming in, and it's an integral first step into the middle class for many borrowers, and it's something that's not been captured in HMDA but potentially could be going forward.

Preston DuFauchard:
I'd just like to thank the panel and thank everyone for inviting me to participate.

Sandra Braunstein:
I would like to thank all of you. I thought this was an excellent panel, questioners, and thank you very much.

[Applause.]

Sandra Braunstein:
We're going to move directly into the Open Mic segment.

[Background noise]

They way we'll do this is I have the sign up sheet and I'll call out people's names. We have a microphone that is being put up right now -- there we go -- in the front. I would ask that when I call your name, that people step forward, and you have five minutes for your statement. We've moved Maggie. As you can see, our timekeeper is up front. She will flash signs to alert you when your time is running out and when your time is up. And the first name on my list is -- is it Namoch Sokhom?

Namoch Sokhom:
"Namoch."

Sandra Braunstein:
Okay. That's the first name on my list if you want to come forward, and you have five minutes.

Namoch Sokhom:
Thank you.

My name again is Namoch Sokham, and I am the Director of the Business Development Center of Pacific Asian Consortium in Employment located in Los Angeles. For the last 17 year, we have served over 70,000 new and small business owner, and have maintained and created new business, over 9,200 that has been employed over 12,200 employee. I'm here to share some story about our clients who have HELOCs. The story of HELOC, when you have it, it is very difficult to separate the ownership of the home and the ownership of business and HELOC is the connection, and this is the -- kind of the human behind HELOCs.

John Trans, which is not his real name, came to U.S. as a refugee from Vietnam in late 1990. Although he was working as a teacher back home, his lack of English prevented him to pursue professional in teaching. In 2001, he used his people skill by starting a seafood delivery business, including live fish and shrimp. In 2001, his business got a delivery truck and also employed two people. John ran the business profitable enough to buy a home in the San Gabriel Valley for himself, his wife, two children, and his parents. But as business grow, he also need cash to get the supply, also provided his restaurant and grocery store owner or customer that need to pay him 15 or 30 day later to make his business very competitive because his

competitors provided 15-day credit to the customer. He also needed to do that, so he needed HELOC to be competitive. While turned town for a conventional, small business finance, but he eventually got HELOCs for 50,000 because home price has been increased back in 2006. However, and the good part is to get the loan, but when you get cut, that's the problem. In 2008, his HELOC -- 50,000 was frozen and, suddenly, he got no source of cash to get the next batch of supply and continue to pay his employee. The final blow to his business is that the gas price also increased, so he was forced to keep his truck idle. He started falling behind on his mortgage. He came to us, PACE, to get help for short-sale process in 2009. Six months later, we helped him to get a short sell approved by the first mortgage, but the second, smaller mortgage still require him that he have to pay the principal of the smaller mortgage. While his home ended up foreclosed, three months, with shame, he moved his family out of California. His American dream of success that once seemed so close was now dead.

So there are two problems out of this. Small businesses still need to utilize home equity for collateral as a credit, and there's a need of small business to create its own credit history. So I propose that a new kind of loan product be allowed which will use home equity as collateral and a cash flow for business as a source of the payment. The loan would be made in the name of business but collateralized by the home guarantee by personal signature. That way, the business can create small credit history as well. Thank you.

Sandra Braunstein:
Okay. Thank you very much.

Nancy Kenyon.

Nancy Kenyon:
Good afternoon. My name is Nancy Kenyon. I'm Executive Director of Fair Housing of Marin. Our organization investigates housing and lending discrimination in Marin County. And in addition to this fair housing counseling, we run a foreclosure program for distressed homeowners, advising clients in seeking modifications from lenders. One-third of these clients are Latino or non-Caucasian.

What are we seeing? Lenders are delaying or denying modifications for the great majority of our clients; many of them are going to lose their homes. Trial modifications may be granted, if rarely, but permanent modifications are then denied. Are they being denied because of their race or their ethnicity? We don't have the data now to tell. We were not surprised by the number of loan foreclosures. Several years ago, we used HMDA data to conduct an audit of loans in poor areas of the county. We found predatory lenders were targeting these areas with subprime loans, particularly to senior homeowners of color, whose only asset was their homes. In one case, we assisted a monolingual Latino couple join a class-action suit against Ameriquest. All of their loan documents were in English, even though they requested that they be given to them in Spanish. In a separate study of mortgage lenders in the Bay Area, we found that Latino and other ethnic testers -- testers are people who go in as sort of customer service people -- were immediately directed to FHA, with no effort to try to qualify them for prime loans. We could not have directed any of these programs without the HMDA data. If we are to help the many distressed homeowners and ferret out predatory lending and discriminatory practices,

information from lenders is needed more than ever, particularly in reporting of loan modifications by race, ethnicity, gender, and census track.

I thank you so much for the hearing.

Sandra Braunstein:
Thank you.

John Frangoudis?

John Frangoudis:
Thank you.

My name is John Frangoudis. I'm President of California Association of Mortgage Professionals North Bay chapter. I have been in the mortgage industry for over 20 years, but I have been active with consumer groups much longer. But the days where we were talking about CRA and affordable housing for prices in East Oakland were 15-, 20,000, while I buy home. So it's come a long way. The CRA and HMDA have come a long way as well. Unfortunately, the data collection and the timeliness of the collection is a very, very, very critical point. As late as 2007, civil servants were front of Congress and telling the American people that (inaudible) is not going to have big effect on economy, because he was saying that believing everything you are saying, because the data he was coming from was a year -a-half or maybe two years ago old. You have to have accurate data.

Today, we're talking -- we spent a lot of time about accuracy of data and timeliness. Where are 2010? Computers have been around a long time. The lenders accumulate all that information, whether it's credit scores -- you can put up new field on application, collect all the data, and one day after the quarter is over, that computer can, you know, spit out all the information you need. You don't have to wait for a quarter or one more quarter or a year later to get information. It can be provided. It can be programmed and provided. Today's problem, though, is much more acute, because we are facing the biggest destruction of wealth in the history of the human race, and unless we do something about the loan-modification issues, we are not going to solve the economic crisis that exists. Now, I'm speaking from my experience because of all those years, in the last two, three years, I've been helping people with loan modification. I have an e-mail I received three days ago from a friend that I've been helping, who has been trying to do a loan modification with Wells Fargo.

Now, Wells Fargo has been, in my experience, one of the best banks to deal with on loan modification, but they're still falling very, very, very short. Basically, what I see is, how come the regulators and the banks do not help anybody? But instead, they are hindering our efforts to modify the loans. With Chase, I have been working with Chase and another borrower. My first contact with them was December 15, 2008. He had two loans. This is success story. I'm not talking about failure. This is success story. The person is still in the house. The person has still not modified the second loan. We are entering in the modification of the second loan. The trial period starts September, and he is going to go September, October, November; and then, finally, we are going to have the modification sometime in December. That is two years after I started.

There's no justification for it. They were losing papers. They were missing papers. They were messing up the papers. I mean, I had to put the poor guy through rigmarole and everything else to jump through the hoops, and I did. Again, I consider that a success story, because they gave principle reduction, they lower the payment, and made the house affordable for him to stay, and he did not lose his house. Obviously, he cannot refinance or do anything else for many years, but at least he is in the house.

Unless we do something with loan modification, it is not going to help us in anything with all the data you collect. We'll have come up with a program that if the big banks work with the community organizations and with the mortgage professionals, we believe that we can solve the problem in six months. Obviously, this is not the time for me to discuss that, but I would be glad to talk to anybody who is interested in listening. But thank you very much. I appreciate the opportunity to speak. And HMDA is very important to collect all the data, but much more important than privacy and identity or whatever else is the timeliness of information. It has to be given information at very, very, very speed.

Thank you.

Sandra Braunstein:
Thank you.

John Lind.

John Lind:
I'm John Lind, Executive Director of a small organization called CANICCOR, an agency of nonprofits. Basically, we serve as consultants to institutional investors who have social concerns but are, of course, investors in the banks that we are concerned about. And so, we try to meet with all the major banks about once a year. In the last 12 months, I think we've met with ten, and including all the major ones.

In this process, there's a dialogue that goes on, and in order to make that dialogue fruitful, I generally prepare a fairly detailed analysis of HMDA and CRA data, highlighting issues that we're concerned with as of the moment, and recently, that's also been involving loan modifications. So, you know, if you bring in call-report data and everything else you can find. So you might call it -- it produces sort of a mini-CRA report that we send to the bank before we meet with them so that the discussion is fairly focused. And so, in this context of analyzing all these data, one point that hasn't been touched on very here is, particularly, multi-family housing loans. And there, I really think the information needs to be expanded. One important point, which should also be to single families, is the number of units. When I lived here in San Francisco, every house on my street is more than a single-family house, so that gives you some idea of how important, at least in the larger cities, the larger, single-family housing units, as well as the multi-family.

In our analysis of the multi-family data, our concern has been focused on units of 5 to 50, because they tend to be more the size of units used by lower-income people, and, aside from, you

know, city developments, low-income developments, which may be above 50, and there is no way of knowing the number of units. And so, I stand on my head, taking the average loan value in an MSA track, and trying to fudge what I think the ratio of a single-family house to a multi-family, single unit would be, and then try to put in a change of difference of the LTV ratio and so forth. Secondly, we need to know the LTV ratios here, because most of these loans are fairly short, they are modified, they're refinanced after ten years or something like that, and so, it's really important to know what the LTV is on the loan when it's given. So those are two important points on the multi-family that I bring up.

And the other thing is piggyback loans, and I do just what the Fed does, and I go through and I try to match all this closed-end seconds, or the few that might be HELOCs that are reported, with the appropriate first lien. And this, within a given lender, I think the order of maybe 90 percent, roughly correct, but we need some way of having an index that connects the second mortgage to the first mortgage. I don't want anything that tells where the property is or anything like that, but HMDA needs to invent some sort of a way of tagging the second lien with the first lien, because that's been a major problem in modifications, where strangely enough, as we all know now, most lenders are more willing to pay off – bring current their second lien, and let their first lien go into delinquency.

So I thank you very much for giving me this moment to present my concerns.

Sandra Braunstein:
Thank you.

Leonard Ryan?

Leonard Ryan:
Hi. I'm going to take a little different approach today. My company, I think, will have a little bit from both sides of it today. I didn't exactly know what I wanted to comment on until I heard what everybody was talking about. My company processes about 1,500 HMDA reports a year for lenders nationwide. And out of that, approximately 8 million loans are processed through our software. And what we work with is from a technical side, what's doable and what's not doable. And so, what I wanted to comment on was – from today what was discussed, what is doable and what you guys talked about, and what's going to be a little bit more difficult.

We go through something every single year from last week in February that we call "HMDA hell week," and we order pizza for all of our support people in our and we deal with a ton of stuff dealing with that. So, actually, the idea of a quarterly reporting thing actually has a lot of appeal to me, in terms of spreading things out, but I think also for the industry, we're right now required, just like taxes, that you report on an annual basis but are supposed to maintain it on a quarterly basis. Well, if that's true, you should also be able to report it on a quarterly basis. The concern that I would have with reporting it on a quarterly basis is– was— would be that you must have something in there to be able for people to submit reasonable revisions without ability. Because there's a lot of stuff that does come from the escrow side, and from a lot of other places, where purchaser types and other types of things would cause a problem within there.

I also agree with the panel in terms of including more people, mortgage brokers, private investors. I've had a situation where I spoke in front of a group, that's not one of the major groups – spoke in front of a group, gave a presentation; probably knew at least 30, 40 percent of the people in that room needed to do it. The attorney that spoke right after me said, "Yeah, what he's saying is true. But you know, nobody's ever gotten penalized in your group for not doing it." So I wouldn't recommend filing HMDA reports. I think that that needs to be overcome, and I would look forward to that being done in this area. The reverse mortgages -- I get scared to death about those things. I'd like to see that end. I think a lot of the stuff that people have had about that. What's not going to work and what everybody needs to be a little bit aware of, I think this will be an absolute disaster if this is implemented before January 1 of 2012, and here's the reason: The Dodd-Frank bill gave a lot of strength to what you guys are doing, but it also put a lot of uncertainty, and a lot of regulations still need to be written. And if you try to implement HMDA earlier than that, and you put that into place and then do additional regulation, there's going to be a problem with that. And I think that the industry -- we already suffer when regulations are put into place at weird times. So don't release in January and February, because that's the time that they're doing their previous HMDA. And, you know, if there's something that can be done, I would recommend that.

The other thing about LOS software, loan origination software, the software that you say can be provided the information in a moment's notice, the problem with that is that when you put in new regulation -- in this last couple of years, there's been just tons of regulations that have been put in. And we have programs in our office -- for example, we help people oversee over 7,500 pages of laws, rules, and regulations and we return information in about 30 seconds on it. It is really, really difficult to go through this -- all the different things, stuff like that.

You have two things that have happened. Number one is, that when you say, "I want to add this little field," or, "I want to subtract this little field," the problem isn't your little field. The problem is, is the loan origination software has been opened to do a whole lot of things other than requested, and it takes three or four months for them to close it up. Yes, they can take the appendix out while they're doing open-heart surgery, but they got to finish the open-heart surgery. So it takes a while from a practical view.

The other problems is, is that just like the industry, loan origination software companies have cut back about 40 percent, because they just don't make the money that they used to, and so, they have less developers. So of all these things are very practical, and I don't work with, let's say, Chase or Wells, or one of the big top-five base, I work with all the communities banks and everything else that's involved, and those people have real issues when it comes down it.

Second and last point, the parcel credit scores, assets all that stuff? Those have absolutely huge problems. One of the things is that the big banks may do so many things inside of the census track that you can't figure out who it is, maybe if it's 20 or 30 loans. But I'll tell you, Bank of Hawaii -- yeah, that place is very interesting. You may do one loan in a census tract for the year. Got to figure out who that person is, yeah.

The last thing is that -- two things is -- somebody mentioned 25 loans. I think it should be 100, and there are a number of reasons why I feel that way. Prequalifications. This year, with the

RESPA changes, I've talked to so many lenders that said they got rid of their prequalification program this year, just because the new RESPA changes pretty much made it new. So I think that getting rid of that particular field would be a nonevent in my opinion.

Okay. Thank you.

Sandra Braunstein:
Thank you.

Eva Calzado.

Eva Calzado:
Good afternoon. My name is Eva Calzado. I am a housing economics rights and CRC client. I live in Vallejo. I am a single, hard-working state employee.

In June 2000, I was hired by Sonoma Development Center full-time. On March 2005, I was approved to my first house, zero down, for 355,000. On January 2006, I was attracted by an agent's offer to refinance the house and get a cash-out 75,000, but I told him that 50,000 was enough. I was told to let my mortgage work for me and instead, I will work and work for my mortgage. The loan officer, a real estate agent of the broker, went to our house at night and let me sign voluminous paperwork, but to make a long story short, I was a victim of predatory lending and fraud. I admit that I made some mistakes along the way, like trusting my broker and lenders. Me and my family have paid for this mistake by all the stress and emotional pain we've gone through, and our house is in foreclosure and up for sale next month. So I am here today because I know my family isn't the only family going through this nightmare.

I am here to ask the Federal Reserve to require reporting by the banks on their loan modifications so that we can know if the banks are really helping homeowners stay in their homes. I am here to ask the Federal Reserve to collect better information on the Asian American and Asian Pacific Islander community so that we know how my community is doing in this economic recession, and so that resources can be targeted to better helping Asian ethnic population. Finally, I would like to ask that the Federal Reserve collect information under primary languages spoken by borrowers and what language they receive their loan documents in.

For me, I talk to my broker in my language, which is Tagalog, that's my primary language, and the language I'm most comfortable with, but all my loan contracts were in English. I know that this happened to lots of English second language speakers, not just Filipino, but Latinos too. I hope that the Federal Reserve will collect more information from the banks to make the HMDA loan useful. I also hope and pray that the banks will modify loan to affordable mortgage payments, if possible adjusted, to the present market value of the house. As for me, it is a fair deal, to both lenders and homeowners, to move forward and a solution to foreclosure crisis.

Thank you very much. Good luck to all of us, and may God bless America.

Sandra Braunstein:
Thank you

Paul Ainger.

Paul Ainger:
Good afternoon.

My name is Paul Ainger. I'm an affordable development housing consultant. Over the past 20 years, I've been working a number of housing developers, including Mercy Housing and Community Housing Opportunities Corporation in Davis and Visionary Housing out of Stockton. Why I am here is to advocate for -- let me get my glasses out so I can see -- require detailed information -- reporting on multi-family loaned lending, which is basically apartments, that notes whether the loan was a construction loan or a permanent loan, and whether the housing units for which the loan was sought were deed-restricted for affordable housing. HMDA regulations currently require reporting on mortgage loans secured by multi-family property, but this state has limited significance and it's rarely, if any, ever been analyzed. It's only on permanent loans. Most of the deals that what we do in California in rural areas particularly but even in Sacramento and Chico, Davis, other places that I worked, really have -- mostly have only have construction level attached to them. They don't have any permanent debt at all, because they are so deeply discounted in terms of the rent, there's no permanent debt at all. So that's not captured currently under HMDA data.

So I specifically recommend that HMDA be enhanced to require that the reporting of loan data that includes construction loans for multi-family properties, as well as permanent mortgages. And construction loans are really critical on whether we're going to do the deal. Now, most of the construction loans aren't done by local banks, because they're, frankly, too large to have the lending capacity to do it. So this will also report on the applications of construction mortgage, rent, regardless where the property is located -- whether it's the service area or not. Finally, whether the loan was secured multi-family property that is deed-restricted -- this is very important because nondeed-restricted properties of apartments, basically, just aren't really providing a public purpose as much as deed-restricted ones that have both deed restriction and a regulatory agreement attached to the property.

Thank you.

Sandra Braunstein:
Okay. Thank you.

Neil Fisher.

Neil Fisher:
My name is Neil Fisher. I work with Cando in East Palo Alto, that’s the East Palo Alto Community Alliance and Neighborhood Development organization. I'm a HUD-certified foreclosure intervention counselor. Mostly, we try to help people modify their mortgages, but when I talk to a lender about modifying a loan, I'm talking to a low-level people who are looking at their computer and trying to figure out what someone else has written on the computer for them to talk about. I never talk to anyone at a higher level, anybody who's able to make a

decision. Often, I get told that the client has been given a negotiator, and I get the negotiator's name. I never get a negotiator's phone number or even email address. I'm not able to contact them. I'm not clear who that negotiator is negotiating with, but it's certainly not us.

We have no way to tell what the determining parameters are for a modification, so we can't tell if the bank is discriminating or not. That's the reason we want more transparency in reporting on modifications, for lenders to tell us about geography, race, gender, ethnicity, and see what's going. I want to make a comment on something that came up on one of the panels, where the mortgage industry is resisting efforts to provide more information, and needed 18 months to gear up for the new information that might be required. I've been doing counseling -- foreclosure intervention counseling for two years now, and banks are still as slow as they have always been.

As much as they talk about hiring people and gearing up, they're not doing it. We're not seeing it at our level. It's taken months to get any kind of answer. Even the initial answer, that there's someone been assigned to the case, it takes several months after. So I think as much time as you give them to gear up to handle more information required, they'll take more. It's a complete waste. Also, in terms of privacy for my clients, I don't typically see people until they get a notice of default, so that's a legal-recorded document, and at that point, everybody knows. It's on foreclosure radar, it's on websites, and all their neighbors know they're in financial difficulty. So, really, the privacy issue really to me seems overblown all together.

Thank you very much.

Sandra Braunstein:
Thank you.

Maria Benjamin – oh, okay.

Gina Gates?

Gina Gates:
Good afternoon. Thank you for allowing us an opportunity to speak.

My name is Gina Gates and I'm a member of PACT, People Acting in Community Together, and we are part of the Pico affiliate -- rather, the Pico National Network, we are part of them. There are about 45 PACTS within Pico, who represent one million people in America. First off, I want to let you know that by profession, I'm an e-trainer, so I convert theoretical programs into online formats, and I've been doing that for a long time before it was cool. So I just want to let you know it's a bunch of malarkey about the programming issues that you're hearing. This can happen, and it can happen very quickly if you give the free market an opportunity to respond. I know a lot of engineers. We know a lot of engineers. We know a lot of programmers. We know people who are just putting little applets together to make these things happen. So I just really want to put that out there that the feasibility of this happening is totally possible. The hurdles that you're hearing about – they can be addressed and they can be addressed quickly.

One of the things that came to mind is the issue of privacy. First off, I did lose my home to foreclosure with Chase. The issue with me is, I was negotiating with them -- well, actually, Hope Now was negotiating with them. So the three of us were like, "Yes, we're making this happen." Later, I found out that the day my documents arrived at my home in the afternoon, they sold my house in the morning. Unfortunately, for me, I fell into that little dead zone when WAMU was taken over by JP Morgan Chase. Chase finally admitted, "Hey, you know, we made a mistake here." And the negotiator I was given – of course, I had to escalate that to Jamie Diamond's office to his executive office. And to whoever those people were, I have no idea. I know they're out of Florida.

Basically, they said, "If you give us 40,000, we'll give you your house back."

I said, "With the same loan?"

And at that point, they go, "Well, yeah." And it was a loan that they originally had put to my throat, but at that point it was like, "Hey, I'm going to be able to save my home." It was my first home. I put over a quarter of a million dollars down, but the priority was getting the kids through school, and my businesses were doing well when I got the home. So came back and said, "Got the 40,000, but I need it in writing, because this lender is personal loan needed to know the personally asset is coming back." Basically, I could hear, "Oh, we don't give anything in writing, and my manager just took the deal off the table. You're not getting your home back."

So guess what? My neighbors knew my home was in foreclosure because of the big pod. It became really -- kind of the poster child, because in my neighborhood, that just really didn't happen, but I can tell you that a lot of my neighbors were struggling with their mortgages. So, with that, the privacy issue -- I'm not really concerned about it, because there's a greater good that is necessary, so to be sensitive to it, but it's not that big of a deal. The issue of being identified, and who the people are that they're not self-identifying, I think one of the questions that was not posed is, how many people are into the self-identifying? And let's look at that, so we can calculate a margin of error for that. I mean, I think that that is reasonable. So with that being said, I've now become a very big advocate for modification reform, loan-modification reform. I've lived through some of worst with my neighbors. The people across the country -- the stories are repetitive. You know, the way it is, we get no response, our documents get lost, people don't return our calls. Mistakes like what happened to me continue to happen. And yet, these banks have gone to our Treasury and they have negotiated a deal to get a bailout, and yet when we go to them, this is how we get treated. That is unfair.

We file complaints with the Department of the Treasury through the Office of the Controller, and the banks don't respond, and give us the documents that we require. The problem is, our regulators are not enforcing the law or they can't. Maybe it doesn't have enough teeth, but we need teeth, and we need our regulators to be able to say, "Hey, back off." I think one of the banks said, "Well, we need about 18 months or two years, and then come back and we'll have that conversation." Well why don't they hold off on foreclosures and get their act together?

Thank you.

Josie Ramirez:
I'm Josie Ramirez, I'm sorry, my name is Josie Ramirez, and I'm with the Mission Economic Development Agency. I have a pending engagement, and I was asked to go ahead and speak, if my colleagues would allow.

Sandra Braunstein:
I'm sorry, that's fine --

Josie Ramirez:
John just gave me the green light to do it.

Sandra Braunstein:
Okay.

Josie Ramirez:
I'm sorry. I just wanted to introduce myself again. Josie Ramirez with Mission Economic Development Agency. We are a local HUD-certified counseling agency, and we provide foreclosure intervention counseling here to predominantly low-income Spanish-speaking clients.

And I just want to ditto what Gina just said: We see that every day -- every day -- day in, day out. But what I wanted to address with you is just a glimpse of what we see on the frontline every day. Our counselors meet with clients that are facing the threat of foreclosure, but before we submit a loan-package document or package to the servicers, we sit down with the clients, do a thorough assessment of their financial status; you know, does it make sense for them to keep the house or not? Then once we feel confident that they are a good candidate for a loan modification, we complete a very thorough package and submit it on their behalf, following guidelines, HAMP guidelines; however, unfortunately, more often than not, the loan modification requests are denied. So, when we try to follow up with the servicer to find out, you know, "Why? What happened? These are the guidelines. These are what we're following, and we just need to try to understand why it was denied."

Unfortunately, we're given very vague, sometimes no answers, but sometimes very vague, contradictory: sometimes they make too much income, sometimes not enough income, and yet when we question, "Well, this is our income, this is how we recalculated it. Can you share with us how you derive that income?" They won't. They don't share that information. In fact, a recent trend that's very disturbing is, we've had several of the larger banks or servicers tell us that they are no longer willing to share any financial data with counselors, with HUD counseling agencies, that the only people that they will speak to about financial is the borrower themselves. So then my frustration is that that's what we're for, we're often the middleman that's trying to help these clients who are threatened by the whole intimidation of this, not knowledgeable; they come to us for help, and yet, they're saying -- even though we have authorized third-party lenders on record, they're not -- they don't want to disclose or share that information with us. So this information is critical, and it's no wonder, then, that we as intermediaries that are trying to help families save their homes, are left to wonder and come up with a perception or the idea that maybe there is some unfair or discriminatory practices that are happening.

So, therefore, I encourage the Board to require servicers to report HMDA data on loan mods so that transparency is just not a fluffy word that's being used to make people feel good, but actually really practiced, because our experience is that's not what's happening. Leaving that discretion to be, you know, voluntary, it's just not happening.

Thank you for your time.

[Applause.]

Sandra Braunstein:
Karen Westmont.

Karen Westmont:
Hi. I'm Karen Westmont. I'm an independent researcher. Thank you for letting somebody like me, who's not tapped in, to come to an event like this.

I'm independent, probably because I didn't finish my PhD, but the economists I study with have done amazing research. If you'd like to see evidence-based database, rigorous research on race discrimination in lending, see the work of John E. (inaudible). There's a book from 2000 they've done. But my own research is on consumer finance, mostly low-income consumer finance and housing purchase. I have been a -- I've worked in fair housing. I've worked as a property tax assessor in the last downturn. I have done community organizing and housing policy, for a miserable few years, for the State of California. I have a lot of background. My primary concern is what I think is this hidden problem of housing-cost burdens that are going unidentified. It's a little bit to the DTI question, the debt-ratio question that Mr. Fishbein has raised, but more generally than that. For example -- and I'm thinking, if we are interested in what caused the foreclosure crisis or what are the contributing factors, to look at housing-cost burdens is another way of looking at cost.

High housing costs is usually identified as interest rates. I'm talking about housing costs from the larger-- relative to income. And there have been studies -- Fannie Mae was interested in sustainability earlier in the 2000s. They assumed that the problems we're seeing with income to cost happen after the loan. Aside from, of course, the recent full failure, but I would say that the problem is earlier than that and deliberate, even with prime loans. There are many government programs -- and I know a giant bank who, as an anecdotal story, government programs that do 45 percent of income, not talking all debt, just talking housing-cost burdens – do housing-cost burdens at 45 percent of income, generally for low-income buyers, but it has been stretched. FHA is pulling those ratios back, but they were never that high. The thing is, how broadly this practice is, we don't know. If HMDA had this data -- if it had – there is a category in HMDA for DTI rejection. If there is DTI rejection -- I realize this is a definitional question, but if we had the debt-to-income ratio better than that, because that obscures, particularly, the housing-cost burden, PITI, if we had that, that would give us more information on cost burden.

And I'm talking -- we're talking about government programs who know we're supposed to be doing affordability at 45 percent for many of these loans. And never mind it used to be 20 percent. It used to be 25 percent in housing policy. So, now, we've gone to the amazing ratios,

and I would -- my own research looks at the disproportionate burden. For example, for a dollar -- for the same loan, I think my stylized facts were 7 percent at 97 percent loan-to-value, no mortgage insurance. Over the full term of the loan, the subsidy you get from a mortgage interest property tax deduction is one cent on the dollar for a lower-income buyer. It's 30 cents on the dollar for a moderate-income buyer. Never mind, it's more -- for people more.

If you're looking at wealth creation, we need to know, not just PITA, but we also need to know the after-tax PITA. These are questions outside the lenders' concerns, but these are policy questions. Now, considering these things may make it harder for low-income borrowers to get help if we are using standard underwriting or if we were to modify underwriting criteria to consider what subsidy you get or don't from the mortgage (inaudible) never mind the bias of the system.

But there are other ways to ensure that housing might be -- homeownership might be wealth creating, besides the standard instruments we currently use. So I would argue that debt-to-income ratio is nice, presuming definitions before- and after-tax PITA, and then the annual percentage rate is not -- except for the (inaudible) quality -- is not required in HMDA data, but the APR would be nice, not just 30 years out, but 5 years out and 12 years out. That picks up better than typical carrying terms for a homeowner or home buyer, and it also would pick up better the front-end costs that are typically charged of those who finance their mortgage insurance and other things.

So that's it. Thank you very much. Appreciate it.

Sandra Braunstein:
Thank you very much.

Joe Ridout?

Joe Ridout:
Hi. My name is Joe Ridout. I'm with Consumer Action. Thanks to the members of the Board for allowing us an opportunity to comment here. Consumer Action is a consumer education advocacy group that's been around since 1971 fighting for rights of consumers. We offer free publication on housing and consumer-rights topics in numerous languages, including Spanish, Vietnamese, Chinese Korean, Hmong, and Tagalog. And we count over 1,500 community-based organizations in our network of housing CBOs. HMDA must respond to the evolution of mortgage products and the diversity of homeowners by continuing to devolve itself so that it can maintain this data's relevance in the increasingly complex universe of housing needs in mortgage products. In the 1970s, relevant mortgage data did not include downstream changes to the mortgage, like collateralized debt obligations. Mortgage modifications were not an important consideration 35 years ago. Subprime lending was many years from being recognized as a threat. The landscape is now vastly different, and the task of data collection must keep pace with the housing needs of the present.

For example, as has been articulated earlier today, there have been troubling accusations that mortgage applications are being granted on a racially skewed basis; however, these kinds of

claims cannot be properly evaluated unless the data collected keeps pace with the products offered. Modified mortgages must be included in future iterations of HMDA data collection.

We urge the Federal Reserve Board, as well, to break down the Asian category to record the specific ethnicity of the loan borrower. This overly generic category presents a misleading picture and masks policy-relevant differences among specific Asian and Pacific Islander groups. For example, according to the most recent Census that we can use, the homeownership rate for Japanese and Filipino Americans is over 60 percent; while for other API groups, such as the Hmongs and Koreans, it is 40 percent or less. As an even more striking example, the poverty rate for Hmongs is six times as high as the figure for someone who is Filipino, but because HMDA uses "Asian" as a generic catchall in many low performance problems with the API community become invisible and very difficult to address. Specific areas of housing distress that we see include Hmong homeowners in California's Central Valley, and Minneapolis, Minnesota; Vietnamese homeowners in Orange County and Santa Clara County; and Filipino homeowners in San Diego and San Mateo County, California.

These API housing hot spots have been confirmed by many advocates, and by an internal analysis done by a Federal Reserve Board, Community Action, community affairs analyst in 2008, in a report called "The Subprime Mortgage Market in the API Communities," which combined 2000 Census data with 2007 First American Loan Performance Data. There is some evidence, in fact, that API homeowners are being hit the hardest by the wave of foreclosures. The 2008 Census Bureau's American Community's Survey showed that Asian homeownership that year dropped 1.24 percent, the largest fall in homeownership among the nation's major ethnicities. By comparison, blacks suffered a .88 percent decline of homeownership, Hispanics dropped .80 and, whites just .40 percent. California has one-third of the API population, but there is no available HMDA data that can help identify which specific pockets of Asian communities are being hit hardest or being helped the most by specific lending behaviors.

Incomplete data will give birth to misleading conclusions to address social problems. At a time when Americans are suffering through a housing crisis more severe than any in our lifetime, we should take every opportunity to ensure that the information on which we base our housing policy is as thorough and complete as possible.

Thank you.

Sandra Braunstein:
Okay. Thank you.

Clarence Johnson.

Clarence Johnson:
Good afternoon, Madam Chair and distinguished members of the Federal Reserve Board, to the panelists who are still here, ladies and gentlemen.

My name is Clarence L. Johnson. I'm the senior minister/pastor of Mills Grove Christian Church Disciples of Christ in the East Oakland community of Maxwell Park. I'm also an active of the

East Bay Housing Organization's Interfaith Communities United for Affordable Housing, which supports clergy, congregations, interfaith leaders who are involved in affordable housing advocacy. The East Bay housing organization's a 26-year-old nonprofit membership organization made up of over 250 organizations of individuals dedicated to working with communities in both Alameda and Contra Costa Counties. The membership includes nonprofit housing developers, fair housing and tenant rights agencies, community organizations, homeless and social services providers, city and county agencies, as well as financial institutions.

As a clergy person seeking the shalom, the peace in our communities, we believe that violence reduction is connected to housing. I'm very concerned about housing issues. I'm committed to ensuring affordable housing for all the people of our communities. I'm here today specifically to share concerns on multi-family lending. I join a previous speaker, Mr. John Lind, in asking you to use your considerable authority to require reporting on multi-family lending that identifies whether the loan was a construction loan or a permanent loan, and whether the housing units are deed-restricted for affordable housing.

These loans are critical, I believe, to the development of affordable housing. Currently, only permanent loans are captured by the Home Mortgage Disclosure Act. The need for affordable housing – rental housing in particular -- has never been greater. I attended on Tuesday a national night-out event where families came together, where neighbors came together to talk about affordable housing and to share their concern just being a part of the community together, and neighbors getting to know each other. In that crowd was a mother who had lost her job. She has four sons. The sons had to go to live with their father, who was in a two-bedroom house. She was forced to go and live with her mother. So when we talk about these kinds of issues, we're talking about more than paper. We're talking about more than simply homes, we're talking about lives. We're talking about people's lives. And I believe if we can save a home, we can save a boy and a girl. If we save a home, we can save a family. We can save a community. We can save a church. We can save Oakland and San Francisco; indeed, I believe we can save America.

And so, we urge you to assist us in requiring detailed reporting on multi-family lending that identifies whether the loan was a construction loan or a permanent loan, and whether the housing units were a multi-family dwelling or deed-restricted for affordable housing. Your best attention to our concerns will be greatly appreciated. Thank you very much.

Sandra Braunstein:
Thank you.

[Applause.]

Sandra Braunstein:
Carlos Moreno.

Carlos Moreno:
Hi. My name is Carlos Moreno, and the reason I am here is because I qualified for a loan modification. I was -- I got into a bad loan, first of all, with INDYMAC, and I contacted the bank myself, and I told them that I needed some help with my loan. And they got all my information,

on the phone, and they told me that, yes, I was able to qualify for a modification, to send all the paperwork that they were requesting so I could get a modification. I did that. I did everything that they were requesting. I sent the paperwork that they were asking, and after three months, they told me to call them back and see how the process was going. After those three months, I called them back and they told me that they were working on the loan, just to wait on them, that they were going to call me back or contact me by a letter. So the fourth month came or the fifth month came and I called them back -- same story. This happened about seven months. I kept on calling them, and finally, they told me, you know what? You're going to have to do the process all over again. I don't know the reason why, but I believe from INDYMAC, One West, took possession of the bank, or something happened in there, so I end up doing the process all over again. And same story: They told me contact us in about three months, or we're going to send you a letter saying, you know, what type of modification you were going to get.

In the meantime, I was getting into a further and further default in my loan, because they told me, "Just send as much as you can for, you know, what you can make on the mortgage payment."

So this happened for a long period of time. I kept on calling them, asking them questions, you know, about my situation, my loan. And finally, I guess I spoke to this person in management; he told me, "Carlos, I'm sorry. I don't know what happened. We have all your paperwork but it never was assigned to a specific person for your case. You're going to have to do that process all over again."

So at this time, I was really fed up. I was, you know, angry, and at the same time, I was just discouraged, because I thought these people were just playing with me, so I went and got some help. I went with Legal Services in East Palo Alto and spoke with an attorney there, and I guess it was too late. The bank took possession of my house. They foreclosed the house on me, and the attorney told me, "You know what? You were a person that really – you should have qualified for a modification. I don't know what happened." But the bank really did, a -- you know, I don't know if it was a mistake or what was it, but I was just -- I lost my house. At this time, I'm still in the house. I'm going through a legal process and all this, but really, I just want to say that a lot of people are hurting out there, and we got to just do something about this, because, I don't know, it seems like the banks -- they're saying that they're helping people, but they're not. That's all I got to say, and thank you very much.

Sandra Braunstein:
Thank you.

[Applause.]

Sandra Braunstein:
Amber McZeal.

Amber McZeal:
Good afternoon. Thank you all, first of all, for having a panel and inviting me. My name is Amber McZeal. I'm the Communication and Housing Organizer at the organization Causa Justa

-- Just Cause. They are a member-based organization that's been fighting for housing rights and housing as a human right in the Bay Area for the last 10 to 15 years.

I'm here to reiterate all the messages you've heard previously, that we need to have more accountability for the banks, and urging the Federal Reserve to create comprehensive policy to execute that transparency and accountability. I've been working with clients who are homeowners in the Oakland area for the past few months -- they're facing foreclosures -- in a clinic called the "Foreclosure Prevention Group." And I just wanted to reiterate -- or first make a point that there was something discussed about, you know, whether or not there is discrimination within the lending or the lack of loan modifications. And I just want to state that if we don't know, we should know that there is historical precedent for unfair and discriminatory treatment, especially with regard to finances, in the United States; so that is no mystery to any of us. And among varying ethnic groups especially.

This 1975 HMDA Act had at its core the intention of re-establishing an equilibrium with issues like access to credit and fiscal wealth accumulation, and now its intention should be extended, its policies modified to assure that the equitable and fair fiscal practice in relationship to our current economic state. I wanted to first talk about -- you know, I heard a lot of stories about folks who are facing foreclosure, and there's something that we're doing at Causa Justa, which is writing a health report in collaboration with the Alameda County of Public Health, showing the statistics of health risks with regard to people facing foreclosure. This is one of the first of its kind in the United States. Its release is scheduled for the next couple of months. And I think as we start to bring these factors into consideration, that the need for revamping and refurbishing of these policies becomes ever more pertinent. I want to, you know, just again reiterate that we need to have these policies refurbished, because home stability, as the Reverend said before -- I'm really glad he made this point -- home stability is the foundation of harmonious and healthy communities. Predatory and discriminatory lending practices are not only an injustice to customers and consumers, but it's a severe infraction upon the sanctity of our communities. I urge the Federal Reserve Board to demand for more information from the banks, demand for the transparency of the information that they obtain, as well as the sharing of that information with third-party advocacy agencies such as ourselves.

And some suggestions may need to set quotas for the percentage of loans modified, a certain requirement during a week. And in lieu of that, respecting that it is a very slow process for the implementation of policies, perhaps we should set a moratorium on these foreclosures so that we can eradicate this as a crisis in the United States. And lastly, the issue of transparency and accountability addresses the tension of profit over people, and I think not only as a country, but as a human civilization, we have been trying to answer that question and resolve that tension for some time. To allow banks to commit fraud, forms of fraud and forms of theft, and not hold them accountable is an infraction on our civil liberties. We have to re-establish the equilibrium between people and profit, and we must respect and acknowledge the symbiotic relationship between the two. Corporate wealth is a defined and achieved through the community. We are the content, both through labor and consumer.

Thank you.

Kenna Stormogipson:
Thank you. Good afternoon.

It's my pleasure to be here today. I'm a board member of the Lower Bottom Neighborhood Association, and I am here because I'm a school teacher in Oakland Unified, so I don't have to be at work today. We are an all-volunteer organization. And I just wanted to report about what's happening in West Oakland, in the 94607 ZIP Code, and I want to reiterate the other two speakers' -- especially the pastor and the former speaker -- about how this is not just about people's credit scores and losing their houses, but in my neighborhood, it really is a matter of life or death. And I'm not kidding, there's been at least eight people killed in my neighborhood just this summer. And the people being affected are not just the ones having to move out, being evicted, losing their houses. But everyone, especially the renters, especially the folks who can't leave the neighborhood in times of crisis, are finding themselves trapped in a place that becomes more and more violent as houses become boarded up, as houses become empty, as houses become bought up by people with a lot of cash who can get them for cheap. There is a particular investor who I personally know who has bought over 100 homes in the last year in my neighborhood. And I was so struck because two weeks ago, I was talking to a good friend of mine two blocks away, and she was saying, "You know what? I'm moving out of here. I'm leaving. At the end of this month, this is it. I'm done."

And I said, "What happened? You've been here for, you know, a couple years. What's going on?"

And she said, "You know, things were going great and then the neighbor next door, they couldn't short-sell their house, and now it's boarded up and it's become a big drug house." So that was one house.

Next door to me, you know, just three months ago, the same thing happened to my other neighbor. Literally, on every block in my neighborhood, there's been at least one foreclosure. You're lucky if it's only one. And she said, "Well, you know, there I was, and my daughter's four months pregnant. She stepped out of the door to go down the street to go catch the bus for her checkup, her pregnancy checkup, and as she's walking down, all of a sudden, there was a bunch of drama with the dealers and here she was having to run away from gunshots, jump over a neighbor's fence to get away from the stray bullets that were coming at her; fortunately, she wasn't hit by a bullet; someone else was. She still had her checkup, so she goes to the doctor, and the doctor asked her, ‘You know, your heart rate seems to be beating really fast. What's going on?’”

And, you know, it's crazy. It is absolutely crazy to me that nothing more is being done to keep people in their houses, because it is the number one way to improve public safety in my neighborhood, is to keep people in their homes. The police can't do it and, you know, neighbors can't do it when they're being kicked out. So I just wanted to really emphasize that this affects the entire community. It's not just about homeowners losing their homes. And the last point is that as things have gotten worse and worse, more and more homeowners are talking to each other and saying, "Okay. What in the world can I possibly do to keep my home, to not be evicted, to not be foreclosed," because everyone knows someone who's been foreclosed. And as people are

talking, what comes out is that every bank is totally different, and yet you had no choice in who your bank is. Most people started out with one lender -- Washington Mutual, then it went to Chase, then it went to whoever; then they started out with some crazy subprime no-name lender, you know, Provident Lending; and the next thing they know, three months later, it's another bank, another bank, another bank.

So no one really chose their current mortgage holder, and yet that seems to make a lot of difference in terms of if you get any modification or any sort of help with your loan. And it doesn't feel good, even if you get a modification, even if you get some help, it doesn't feel good to know that your neighbor next door in the exact same situation gets no help because they just happened to have a different lender that they did not choose. So there's a level of fairness that's completely absent from this entire process. So whatever information can come out to shed light on what's going on would be helpful, because there is none at this point. So I just wanted to bring out those two parts of the story as well.

Thank you.

Sandra Braunstein:
Thank you very much.

[Applause.]

Sandra Braunstein:
And with that, we're going to end this hearing, and I want to once again thank all of our panelists, thank my fellow presiders, and thank the San Francisco Fed again for their gracious hospitality this morning, and I don't have a gavel to officially bring this hearing to an end.

[Applause.]