

October 10, 2017

## **Oppose the Substitute Amendment to H.R. 2954 - “The Home Mortgage Disclosure Adjustment Act”**

Dear Representative,

The undersigned civil rights, fair housing, consumer and community organizations strongly urge you to oppose the substitute amendment to H.R. 2954, “the Home Mortgage Disclosure Adjustment Act”. The substitute amendment would undermine efforts to ensure that the nation’s mortgage lenders are serving all segments of the market fairly by exempting the vast majority of lenders from the updated reporting required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Public officials use this information in distributing public-sector investments so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns.

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

In response to widespread concerns about predatory lending and opacity in the mortgage market in the run-up to and following the financial crisis<sup>1</sup>, Congress amended the Home Mortgage Disclosure Act (HMDA) to require both banks and non-bank lenders to disclose more information about their mortgage lending activities – updates finalized by the CFPB in 2015. Although not previously reported and disclosed through HMDA, these data points *are already* collected on a routine basis by banks, credit unions and for-profit mortgage companies in the normal course of business, either as a part of basic loan underwriting, for securitization or for other purposes required by law<sup>2</sup>.

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

After considering a number of higher reporting thresholds and receiving extensive feedback from all size and type of lending institutions, the CFPB adopted a standard that applies the new reporting requirements to institutions that made 25 closed-end mortgage loans or 100 open-end/home equity lines of credit (HELOCs). *Importantly*, in response to concerns raised by lenders and by some in Congress, the CFPB has already temporarily raised the reporting threshold for HELOCs to 500 through 2019, in order to further review the impact of the rule and what the permanent HELOC threshold should be. In adopting the HMDA thresholds, the agency

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<sup>1</sup>See GAO, *Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts*, [GAO-09-704](#) (Washington, D.C.: July 15, 2009); and *Consumer Protection: Federal and State Agencies Face Challenges in Combating Predatory Lending*, [GAO-04-280](#) (Washington, D.C.: Jan. 30, 2004). See also Adam J. Levitin, #2 (Georgetown Law Center: 2009).

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

balanced several Congressional interests – adopting a uniform and simplified reporting regime for banks and non-banks; eliminating the need for low-volume banks to report while maintaining sufficient data for analysis at the national, local, and institutional levels; and increasing visibility into the home mortgage lending practices of non-banks.

The substitute amendment to H.R. 2954 upsets that careful balance: its proposed reporting thresholds - 500 closed end loans or 500 open-end lines - would exempt the vast majority of the nation's mortgage lenders from the updated requirements. Based on 2013 data, under the threshold set by the CFPB, 22 percent (1,400) of the depository institutions that currently report on their closed-end mortgages would be exempt. In contrast, if the substitute amendment were enacted, the agency estimates that 85 percent (5,400) of depositories and 48 percent of nondepositories (497) would not have to update reporting on their mortgages. This higher threshold would sacrifice key data about lending in underserved communities that would help to ensure the flow of credit to qualified borrowers, stimulate the economy, and prevent future mortgage crises.<sup>3</sup>

### *Tiered Reporting Sacrifices Critical Data Without Reducing Lender Burden*

H.R. 2954 proposes to adopt a tiered reporting approach, exempting some lenders from reporting the new data points pursuant to the Dodd-Frank Act only. This is purportedly a way to reduce burden. However, because the data points covered by the rule are already collected by lenders, the burden associated with the rule is minimal. Further, as with any data collection effort, the primary driver of HMDA costs is in establishing and maintaining systems to collect and report data, and *not the costs associated with collecting and reporting a particular data field*.<sup>4</sup> Therefore, this approach sacrifices critical information without relieving much of the purported HMDA reporting burden on banks or non-banks.

### **H.R. 2954 Would Undermine Fair Access to Mortgage Credit**

HMDA was passed in 1975 to provide the necessary tools to dismantle uneven access to mortgage credit and expand equal lending opportunities for qualified borrowers, yet important segments of the market continue to lack fair access. For people of color, low- to moderate-income families, and borrowers in rural areas, access to mortgage credit remains tight<sup>5</sup>. While the numbers of loan originations have gone down for all borrowers, African Americans and

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<sup>3</sup> Based on 2013 data, the CFPB estimates that updated reporting would be lost for 10 percent of loan records under a 500 closed-end loan volume threshold, and over 5,300 census tracts would lose 20 percent of the updated data about mortgage lending in their communities. The National Community Reinvestment Coalition (NCRC) estimated the loss of post-crisis data about loan originations by state and found states with large rural areas face some of the largest losses of updated data about mortgage originations. Additional data would be lost about loan applications and why denials are occurring. This map tool estimates the local impact on loan originations data: <http://maps.ncrc.org/s1310/index.html>. H.R. 2954 would mean that communities would also know less about loan applications and denials.

<sup>4</sup> CFPB, HMDA Final Rule, Federal Register, Vol. 80, No. 208, p. 66282.

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

Latinos have experienced the steepest declines.<sup>6</sup> A Federal Reserve analysis of lending in rural areas has found higher denial rates in those communities since the housing crisis than in urban areas.<sup>7</sup> The new data would help explain and inform responses to these lending gaps. A new HMDA data point on the applicant's age is also vital information for evaluating age bias in lending, especially in conjunction with reverse mortgages.

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

For these reasons and more, **we urge you to oppose H.R. 2954 and the amendment offered in the nature of a substitute.** Should you have any questions or comments, please feel free to contact Gerron Levi at the National Community Reinvestment Coalition at (202) 464-2708.

Sincerely,

**National Organizations**

Center for Responsible Lending  
Consumer Action  
Consumer Federation of America  
Equal Rights Center  
Grounded Solutions Network  
Housing Choice Partners  
Morningstar Urban Development, Incorporated  
National Community Reinvestment Coalition  
National Fair Housing Alliance  
National Housing Law Project  
National Organization of African Americans in Housing  
National Urban League  
Public Counsel  
Rural Community Assistance Corporation  
Take Charge America

**AL**

Alabama Associations of Community Development Corporations

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

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

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

## **AZ**

Campeños Sin Fronteras  
Southwest Fair Housing Council

## **CA**

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

## **CO**

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

## **CT**

Connecticut Fair Housing Center

**DC**

NAACP, DC Chapter

**DE**

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

**FL**

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

**GA**

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

**HI**

Hawai'i Alliance for Community-Based Economic Development

**IA**

Scott County Housing Council

**IL**

Bernard Kleina Photography  
Center for Changing Lives  
Chicago Area Fair Housing Alliance  
Chicago Community Loan Fund  
Global Network CDC  
HOPE Fair Housing Center  
Housing Action Illinois  
Oak Park Regional Housing Center  
South Suburban Housing Center  
The Resurrection Project  
U2Cando  
Universal Housing Solutions CDC  
Woodstock Institute

**IN**

Catholic Charities, Diocese of Gary  
City of East Chicago Department of Redevelopment

Community Investment Fund of Indiana  
Northwest Indiana Reinvestment Alliance

**LA**

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

**MA**

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

**MD**

Baltimore Neighborhoods, Incorporated  
Housing Options & Planning Enterprises, Incorporated

**MI**

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

**MN**

Asian Economic Development Association  
Jewish Community Action

**MO**

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

**MS**

CFORM/Covenant Community Development Corporation

**NC**

Center for Responsible Lending  
Durham Regional Financial Center

**ND**

North Dakota Economic Security and Prosperity Alliance

**NJ**

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

**NM**

Southwest Neighborhood Housing Services

**NY**

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

**OH**

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

**OR**

CASA of Oregon  
Radix Consulting Group LLC

**PA**

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

**TN**

Tennessee Fair Housing Council

**TX**

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

**VA**

Housing Opportunities Made Equal of Virginia, Incorporated

**WA**

Northwest Fair Housing Alliance  
Office of Rural and Farmworker Housing

**WI**

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