

November 10, 2014

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Re: File Error Rate Clarification for the Request for Comment on Proposed
Amendments to Regulation C, Implementing the Home Mortgage Disclosure Act,
Docket No. CFPB-2014-0019

Dear Ms. Jackson:

The Consumer Bankers Association (“CBA”) and American Bankers Association (“ABA”) would like to clarify the “File Error Rate” section of our previously submitted joint trade response (“Joint Letter”) to the Consumer Financial Protection Bureau’s (“CFPB” or “Bureau”) proposed amendments to Regulation C, implementing the Home Mortgage Disclosure Act (“HMDA”). Specifically, there was an unintended oversight in the sentence describing the file error rate. Specifically, the following sentence “[e]ven if the error rates are kept below 1% per field, the *whole application* can still ‘fail’ if more than 10% of the *categories* contain more than one error” should have read that the “entire HMDA *Loan Application Register* (“LAR”) can still ‘fail’ if more than 10% of the *records* have at least one error.” We apologize for any confusion.

While making this correction, we would like to further clarify why the CFPB should eliminate the file error rate and ask the Bureau and prudential regulators to issue interagency standards, whether through formal rulemaking or supervisory guidance, to eliminate the file error rate and resolve the other data integrity issues addressed in the Joint Letter.

Eliminate File Error Rate

We ask the Bureau to eliminate the file error rate because it lacks statistical foundation and does not have a material impact on fair lending analyses, given that lenders must already meet error rate standards at the field level. Since the analyses are not completed at the record or application level, we cannot identify a benefit to having the per file rate standard. The file error rate identifies the percentage of applications that contain at least one error, but tells nothing about which category of data is affected. Understanding data integrity is important for researchers to conduct fair lending analyses; however, this information can only be gleaned at the field level, for which we maintain that error rates should continue to be monitored. Stated another way, lenders may submit HMDA LARs that meet or exceed required data integrity standards at the field level that would have more than sufficient data integrity to yield accurate fair lending analyses, yet they could be asked as a result of an exam to “scrub” their data and resubmit their HMDA LAR due to failing the per file error rate metric that has no merit.

Not only is there no benefit, but the file level standard also is impractical and unreasonably difficult to meet consistently. In practice, lenders must strive to achieve error rates at the field level well below the 5% per field threshold, and well under error rate maximums that might materially impact HMDA and fair lending analyses. Our members indicated that in order to meet this overly-burdensome file error rate, they must achieve 0-1% error rates for almost all fields. To achieve such onerous levels of quality, our members often must implement costly and highly difficult scrubs of the data. Moreover, because scrubs of most fields cannot be performed in an automated fashion, such scrubs are subject to human error. Since there is no way to know if any field in a given record is incorrect, the scrub performed by lenders could create as many or more errors as it resolves. Our members have indicated that multiple scrubs are not uncommon due to this human element.

The proposed rule will make the per file error rate even more burdensome. As written, the proposal effectively doubles the number of fields from the present 36 to 72. The methodology to calculate the per file error rate is such that if even one field is incorrect in a given application, the entire record is considered an error, even if every other field in that record is accurate – including all “key” fields as defined in the Joint Letter. In other words, the error rate of the record could be as low as 2.8% and the record would still be deemed inaccurate. According to our members’ calculations, once the new requirements are in place, the error rate of the record could be as low as 1.4% and yet the record would be inaccurate. Simply put, these standards are overly-burdensome, yet lack a corresponding benefit, and the most recent proposed changes will inherently make this already unreasonably onerous metric twice as difficult to achieve.

Coordinate with Prudential Regulators

Consistent with the Small Business Representative’s concerns during the small business review panel, we stress the importance of coordinating with prudential regulators when establishing data integrity standards. In this vein, we urge the CFPB to treat the file error rate issue as a regulatory matter, rather than a supervisory matter, to encourage uniform HMDA application among regulatory agencies. However, if it remains a supervisory matter, we strongly urge a collaborative approach either through the FFIEC or otherwise, to ensure consistency and uniformity. HMDA data are screened by the CFPB for accuracy under Regulation C for institutions within its jurisdiction, including banks over \$10 billion in assets, while depositories at or below \$10 billion in assets are supervised by their prudential regulators, the OCC, FDIC, FRB, or NCUA. Adding further complexity, depository institutions over \$10 billion are also reviewed for Community Reinvestment Act (“CRA”) data integrity by their prudential regulators, as CRA is not within the CFPB’s scope. Hence, many institutions are subject to two or more different screens. We stress the importance of consistency to reduce regulatory excess and increased costs, which are ultimately borne by consumers.

Conclusion

Thank you for considering data integrity standards and the important issue of eliminating the file error rate. We appreciate the Bureau’s efforts of streamlining HMDA reporting and

would welcome the opportunity to be a resource throughout the rulemaking process. Please do not hesitate to contact Kate Larson of CBA at 202.552.6366 or Rob Rowe of ABA at 202.663.5029 with any questions regarding this letter or the Joint letter.

Sincerely,

Kate Larson
Regulatory Counsel
Consumer Bankers Association

Rob Rowe
Vice President & Associate Chief Counsel, Regulatory Compliance
American Bankers Association

cc. Kathleen Ryan, CFPB