



Building Success. Together.

# “The Four Tentacles of HMDA”

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# Comparison of Data Fields

## Old HMDA Field Types

### Mostly Unchanged

- Application Date
- Loan Type
- Preapproval
- Action Taken
- Action Taken Date
- Income
- Type of Purchaser
- HOEPA Status
- Lien Status

### With Modified Reporting

- Property Type
- Loan Purpose
- Occupancy Type
- Loan Amount
- Property Location
- Ethnicity
- Race
- Sex
- Reason for Denial
- Rate Spread

## New HMDA Field Types

- Age
- Credit Score
- Total Loan Costs
- Origination Charges
- Discount Points
- Lender Credits
- Interest Rate
- Prepayment Penalty Term
- Debt-to-Income Ratio
- Loan-to-Value Ratio
- Loan Term
- Introductory Rate Period
- Non-Amortizing Features
- Property Value
- Application Channel
- Loan Originator ID
- Automated Underwriting Result
- Reverse Mortgage
- Open-End Line of Credit
- Business or Commercial Loan

# Overview

## “Dissection” of HMDA Challenges:

### 1. Setting:

- Political vs. Compliance
- Legal vs. Risk Consideration

### 2. “Tentacles”:

- Lingering compliance issues
- Upcoming reforms possibilities and reconfigurations to current systems
- Legal risk considerations.
- Reputational risk considerations.

# Compliance

- Persistent Problems
  - Lack of clarity in rules
  - Errors in language
  - Interpretive issues
  - Inability to tailor to specific circumstances
  - Technical “code” issues
- Resolutions?
  - New rules?
  - More guidance?
  - General reform to entire regulation?
  - Repeal of parts?

# Reforms

- Reforms are certain
  - Regulatory
  - Legislative?
- Timeframes?
- Institutional Planification
  - Systems
  - Staff

# Legal: How Will the Government Use the New Data?

- To obtain much of the expanded information, regulators would previously have had to issue a pre-examination data request or civil investigative demand.
- However, the new reporting requirements will allow regulatory agencies to develop sophisticated data screening, data mining, and statistical modeling routines that can be applied uniformly across all lenders subject to HMDA reporting requirements.
- Although these statistical models will still be subject to some limitations (because they will not include all relevant underwriting and pricing factors) they will be much more comprehensive than existing screening procedures (based on the data that was previously readily available to regulators) and will allow regulators to more effectively target institutions with potentially elevated levels of fair lending risk.

# Legal: How May Private Litigants Use the New Data?

- Members of the public will for the first time have greater access to some of the key determinants of underwriting and pricing decisions.
- The new data may allow litigators to present a more credible *prima facie* case to a court when disparities are found than is the case with the current HMDA data, because the disparities would be estimated after controlling for a broader range of pricing and underwriting factors.
- Similarly, there will be increased regulatory and reputation risk based on advocacy group studies of the data.





# Data Analysis: Testing for Additional “Protected Classes”

## Additional Race/Ethnicity Groups

- New HMDA data will allow testing for potential disparities unfavorable to more granular race/ethnicity groups.
- Asian sub-groups (e.g., Chinese, Filipino, Japanese)
- Pacific Islander sub-groups (e.g., Hawaiian, Samoan)
- Hispanic sub-groups (e.g., Mexican, Puerto Rican)
- Currently unclear how often such applicants will be identified.

## Applicant/Borrower Age

New HMDA data will allow testing for potential disparities unfavorable to “senior” applicants/borrowers (i.e., age  $\geq$  62 years).

# Data Analysis: Hypothetical Example of “Peer” Comparison

**Hypothetical Lending Institution  
Peer Comparison for Originaton Activity  
Geographic Area #1 - 2018**

<b>Lender Name</b>	<b>Total Loans</b>	<b>Loans in Majority Minority Tracts</b>	<b>Share in Majority Minority Tracts</b>	<b>Average APR in Majority Minority Tracts</b>	<b>ARM Share in Majority Minority Tracts</b>
Institution A	40,000	2,400	6.0%	4.188%	8.8%
Institution B	35,000	2,275	6.5%	4.024%	5.2%
Institution C	30,000	1,500	5.0%	4.228%	3.8%
Institution D	24,500	1,470	6.0%	3.963%	9.8%
Institution E	13,750	688	5.0%	3.957%	6.7%
Institution F	12,500	563	4.5%	3.855%	7.3%
<b>OWN INSTITUTION</b>	<b>7,000</b>	<b>210</b>	<b>3.0%</b>	<b>4.236%</b>	<b>10.4%</b>
Institution G	6,500	488	7.5%	4.000%	7.2%
Institution H	3,750	113	3.0%	4.060%	4.9%
Institution I	3,500	350	10.0%	3.858%	4.3%
Institution J	3,500	525	15.0%	4.373%	6.1%
Institution K	1,250	63	5.0%	4.789%	3.5%
Institution L	750	68	9.0%	4.234%	7.4%
<b>All Other Lenders</b>	<b>175,000</b>	<b>10,500</b>	<b>6.0%</b>	<b>4.086%</b>	<b>6.8%</b>
<b>Lenders with Similar Volumes</b>	<b>36,500</b>	<b>1,850</b>	<b>5.1%</b>	<b>3.944%</b>	<b>6.9%</b>

“Peer” comparisons could be expanded beyond penetration rates in minority census tracts to include APR, total loan costs, product features, etc.



# What Can Lenders Do Now?

- As a result of the considerations described above, lenders will need to be increasingly diligent in evaluating their fair lending risk.
- In addition to performing regular monitoring of pricing, underwriting and redlining risk that takes into account relevant pricing and underwriting factors, and analyzing application/lending volumes vs. peer institutions, lenders should also consider performing separate assessments to identify anomalies observable from the expanded data fields and prepare to address/explain them prior to third parties' access to publicly available expanded data fields.
- Similarly, lenders should review newly collected data sets to determine whether it is “dirty” and in need of correction, and to develop explanations prior to reporting information to regulators.
- If any such data anomalies present evidence of disparate impact, it will be especially important to document that they are explainable by legitimate, non-discriminatory factors, and if not explainable, that appropriate remediation has been taken or is underway.

# HUD's Funding of the Private Enforcement Initiative

- On December 4, 2018, as part of the U.S. Department of Housing and Urban Development's ("HUD") Private Enforcement Initiative, HUD announced that it awarded more than \$23 million of grants to 77 fair housing organizations across 35 states to protect consumers from housing discrimination.
- HUD's release stated that the "grants offer a range of assistance to the nationwide network of fair housing organizations so they can carry out testing and enforcement activities."

State	Recipient	City	Amount
Maine	Pine Tree Legal Assistance	Portland	\$300,000
Massachusetts	Suffolk University	Boston	\$299,989
Massachusetts	Community Legal Aid, Inc.	Worcester	\$300,000
Massachusetts	Massachusetts Fair Housing Center Inc.	Holyoke	\$300,000
Massachusetts	SouthCoast Fair Housing, Inc.	New Bedford	\$300,000
Vermont	Vermont Legal Aid, Inc.	Burlington	\$300,000

# Reputational Risk

- Current vs. Future Risk
  - Changing demographics
  - Changing Administrations
- Understand National & Community Pressure Points
- Press
  - Talking Points
    - Bank's Philosophy
    - Bank's Lending Record
    - Bank's Controls & Proactive Activities
    - Limitations of HMDA Data
  - Official Reports (CFPB "Articles" / Advocacy Reports / Local Analysis)
- Be Ready!

# Questions

