

**NATIONAL CREDIT UNION ADMINISTRATION  
OFFICE OF INSPECTOR GENERAL**

**HOME MORTGAGE DISCLOSURE ACT  
DATA ANALYSIS REVIEW**

Report #OIG-08-09  
November 7, 2008



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## EXECUTIVE SUMMARY

The Home Mortgage Disclosure Act (HMDA), implemented by the Federal Reserve Board's (FRB) Regulation C (12 CFR 203), requires credit unions and other financial institutions to compile and disclose data about home purchase loans, home improvement loans, and refinancings they originate or purchase, or for which they receive applications. In addition, several loan applicant/ borrower characteristics must also be reported.

One of the purposes of Regulation C is to assist in identifying possible discriminatory lending patterns and enforcing compliance with anti-discriminatory statutes. The National Credit Union Administration (NCUA) is responsible for enforcing HMDA regulations for all credit unions.

The NCUA Office of Inspector General (OIG) initiated an audit survey to determine what NCUA is doing to ensure that HMDA data is used and followed-up on to prevent instances of possible discriminatory lending practices.

As a result of our interviews with several NCUA staff, we concluded that NCUA is not utilizing HMDA data to the fullest extent possible in identifying possible discriminatory lending. However, NCUA does determine that all required credit unions file their HMDA information in a timely manner.

NCUA's efforts in determining the accuracy of HMDA filed data are somewhat limited. NCUA district examiners may review HMDA data for accuracy if there is a related risk identified during the exam scoping process. Some of the potential risk indicators could be, late filing of HMDA data in a prior year or a credit union listed on the Federal Reserve's "pricing outlier" report<sup>1</sup>. NCUA fair lending examiners determine the accuracy of HMDA data during their fair lending examination process. However, only five fair lending examinations are performed each year for each of the five NCUA regions.

In addition, NCUA's discriminatory lending analytical efforts are also limited. Annually, the Federal Reserve Board sends a "pricing outlier" report to NCUA, which in turn forwards it to the appropriate NCUA regional office. This report isolates credit unions which potentially discriminate in their mortgage pricing. According to NCUA's Office of Examination and Insurance (E&I), there are approximately one or two credit unions on the list each year.

NCUA performs limited analysis of loan application register HMDA data for other potential discriminatory lending patterns. According to E&I, that office is in the process of developing such analysis. This analysis is expected to be operational in 2009.

The OIG has offered one recommendation addressing the above concerns.

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<sup>1</sup> This report provides data on interest rates charged for loans as an indicator of potential discrimination in mortgage pricing.

## BACKGROUND

The Home Mortgage Disclosure Act (HMDA), implemented by the FRB's Regulation C (12 CFR 203), requires credit unions and other financial institutions to compile and disclose data about home purchase loans, home improvement loans, and refinancings that they originate or purchase, or for which they receive applications. In addition, several loan applicant/ borrower characteristics must be reported.

The purpose of Regulation C is to provide the public with data that can be used to:

1. Help determine whether financial institutions are serving the housing needs of their communities;
2. Assist public officials in distributing public sector investments so as to attract private investment to areas where it is needed; and
3. Assist in identifying possible discriminatory lending patterns and enforcing compliance with ant-discriminatory statutes

NCUA is responsible for enforcing HMDA regulations in all credit unions and the Equal Credit Opportunity Act (ECOA) in federally chartered credit unions. NCUA also has a collateral responsibility to report identified violations of the Fair Housing Act (FHA) to the Department of Justice or Department of Housing and Urban Development, if appropriate. Although NCUA is not the enforcement authority for all regulations associated with fair lending, Title II of the Federal Credit Union Act authorizes NCUA to initiate administrative actions against credit unions for violations of law. NCUA can also issue administrative actions for unsafe and unsound practices. Weaknesses in fair lending procedures could constitute unsafe and unsound practices and ultimately risk of loss to the National Credit Union Share Insurance Fund (NCUSIF), if the violations potentially expose an insured credit union to costly litigation or civil remedies.

Whether a credit union is required under HMDA to file a loan application register generally depends on its asset size, its location, and whether it is in the business of residential mortgage lending. Specifically, a credit union must collect HMDA data associated with mortgage applications processed during the year, if:

- Total assets, as of December 31 exceed the threshold established by the FRB (\$37 million at 12/31/07); and
- The credit union has a home, office or branch in a metropolitan statistical area (MSA), as defined by the Office of Management and Budget; and
- During the reporting year, the credit union originated at least one home purchase loan or a refinance of a home purchase loan secured by a first lien on a one to four family dwelling

Credit unions that meet the above criteria are required to send their loan application register HMDA data to NCUA's processing agency, the FRB, by March 1 following the calendar year which loan data is compiled. Every loan application, origination and purchase must report data about the:

- Loan, such as type and amount;
- Property, such as location and type;
- Disposition of the application, such as whether it was denied or resulted in an origination; and
- Applicant such, as ethnicity, race, sex and income.

The FRB processes the data on behalf of the Federal Financial Institutions Examination Council (FFIEC). The FFIEC prepares, from the loan application register HMDA data, a series of tables that comprise the public mortgage loan disclosure statement for each credit union. Credit unions must make their disclosure statement available to the public and retain LAR data for three years. In addition, the FFIEC combines HMDA data submitted by all financial institutions and produces aggregate tables for each MSA showing lending patterns according to demographic characteristics provided by the Census bureau. The FRB makes the data base information available to financial regulators, such as NCUA, provides edit checks on credit union submitted data, and provides loan pricing “outlier reports” to NCUA.

## **PURPOSE AND OBJECTIVES**

The United States Congress has shown a renewed interest in federal regulation of fair lending laws, especially as it relates to mortgage lending. On July 25, 2007, the NCUA Director of Examination and Insurance testified before the U.S. House of Representatives Financial Services Subcommittee on Oversight and Investigations. On April 11, 2008, the U.S. House Financial Service Committee Chairman requested the Government Accountability Office to perform a comprehensive review of the current state of federal enforcement of the Equal Credit Opportunity Act, the Home Mortgage Disclosure Act (HMDA), the Fair Housing Act, and other related fair lending laws.

HMDA data is reported annually for all qualified credit unions. This data contains various mortgage lending and demographic information. Therefore, the NCUA OIG initiated an audit survey with the following objective:

- Determine what NCUA is doing to ensure that HMDA data is used and followed-up on to prevent instances of possible discriminatory lending practices.

## **SCOPE AND METHODOLOGY**

The time period reviewed was the 2006 and 2007 HMDA filing years. The OIG obtained information from NCUA's E&I and Region II.

Some of the procedures performed were:

- Interview of E&I and Region II staff
- Review of HMDA regulation
- Review of NCUA Regulatory Alerts, Examiner's Guide, and NCUA Consumer Compliance Self Assessment Guide
- Review of FFIEC Guide to HMDA reporting

## RESULTS

One of the purposes of the HMDA is to assist financial regulators in identifying possible discriminatory lending patterns and enforcing compliance with anti-discriminatory statutes. Under NCUA's Risk Focused Examination Program, examiners exercise judgment in developing variable scope procedures to determine the risk or existence of discriminatory lending. Examiners are required to consider such factors as HMDA data, credit union member complaints, prior examination concerns, lending program complexity, and credit union field of membership when determining what examination procedures will be performed. In addition, separate fair lending examinations may be performed in credit unions by NCUA consumer compliance subject matter examiners. The number of fair lending examinations and related examiner hours allocated to these examinations are budgeted each year by a joint effort of E&I and each of the five NCUA regional offices. The factors used in the selection of specific credit unions for a fair lending examination, are the same factors used in the Risk Focused Examination Program, discussed above.

In order to be useful in identifying possible discriminatory lending patterns and enforcing compliance with anti-discriminatory statutes, we believe the loan application register HMDA data should be:

- Completed by all required credit unions;
- Submitted timely to the FRB by credit unions;
- Verified for accuracy; and
- Analyzed by NCUA

NCUA ensures that all required credit unions file their loan application register HMDA data with the FRB in a timely manner. However, NCUA performs limited testing to verify the accuracy of the HMDA data reported and performs limited analysis of such data for possible discriminatory lending in credit unions.

### All Required Loan/Application Registers Received

NCUA determines if all required credit unions have filed an annual loan application register with the FRB. Annually, NCUA issues a Regulatory Alert informing credit union officials of the HMDA filing requirements and reporting deadlines. E&I works with the FRB to ensure that all required credit unions have filed their loan application register data. E&I will then follow-up with the regions for any non-filing credit unions. Therefore, it appears that NCUA performs sufficient oversight to ensure that all required credit unions file their loan application register.

### Loan/Application Registers Submitted Timely

NCUA determines if all required credit unions have filed an annual loan application register with the FRB by the March 1<sup>st</sup> due date. NCUA's focus to date has been on

ensuring the timeliness of loan application register filings with the FRB. E&I obtains information, on a periodic basis prior to the March 1<sup>st</sup> filing deadline, from the FRB regarding which credit unions have not filed a LAR. E&I forwards this information to the appropriate NCUA region for follow-up. This information is also used to set up parameters for civil money penalties on late filing credit unions. The late filing credit unions will receive a Preliminary Warning Letter prior to any assessment of penalties.

The number and amount of NCUA assessed civil penalties on credit unions for late filing of HMDA for 2005 and 2006 was:

Year	Number of Penalties	Amount of Penalties
2006	22	\$174,500
2005	18	\$220,250

Based on our review, it appears that NCUA performs sufficient oversight to ensure that credit unions file their loan application register data in a timely fashion.

#### Loan/Application Registers Accuracy

NCUA performs limited testing of the accuracy of loan application register HMDA data submitted by credit unions. NCUA district examiners may review HMDA data for accuracy if there is a related risk identified during the exam scoping process. Some of the potential risk indicators might include, late filing of HMDA data in a prior year or a credit union listed on the FRB’s “pricing outlier” report. NCUA fair lending examiners determine the accuracy of HMDA data during their fair lending examination process. However, only five fair lending examinations, on average, are performed each year for each of the five NCUA regions.

The number of fair lending exams performed over the past five years compared to the total number of federally insured credit unions (FICUs) reporting HMDA data was:

Year	Fair Lending Exams	Fair Lending Exam Findings - HMDA Errors	CUs Reporting loan application register HMDA Data
2007	26	9	2,042
2006	24	16	2,060
2005	25	14	2,073
2004	24	10	1,981
2003	30	2	1,903

#### HMDA Data Analyzed

NCUA conducts limited analysis on loan application register HMDA data for potential discriminatory lending patterns for the majority of credit unions. Annually, the FRB sends a “pricing outlier” report to NCUA, which in turn forwards it to the appropriate NCUA regional office. This report isolates credit unions which potentially discriminate



in their mortgage pricing. According to E&I, there are approximately one or two credit unions on the list each year. However, NCUA does not currently perform any analysis of loan application register HMDA data for other potential discriminatory lending patterns. According to E&I, that office is in the process of developing such an analysis. This analysis is expected to be operational in 2009, and primarily addresses potential “outlier” credit unions which are reporting significantly higher rates of credit denials and/or incidences of granting higher priced loans. This analysis will identify lending disparities among races and ethnic groups and trends by credit union type. A secondary objective is to identify common data reporting problems. The analysis methodology will be a comparison of ratios of different loan application actions (approvals, denial, higher priced loans) among various borrower characteristics and credit union types. The results of the analysis will be shared with NCUA Regional Directors for their use in planning fair lending examinations.

According to E&I, NCUA has taken several steps to mitigate the lack of analysis of loan application register HMDA data. Including the following:

- District examiners look at HMDA data during routine safety and soundness examinations as warranted by the examiner’s assessment of risk.
- Regional Offices have access to HMDA data from the FFIEC’s web site and conduct their own analysis.
- E&I and the Office of Capital Markets and Planning are in the early stages of reviewing global HMDA data and have conducted preliminary assessments.

Due to the nature and process of the risk focused exam where if a problem is not identified it is then not documented, we were unable to verify examiners review of HMDA data during routine safety and soundness examinations.

The number of consumer compliance violations related to fair lending in regular exams from January 1, 2004 through June 30, 2006 was:

Category	Number of Violations
Equal Credit Opportunity Act	456
Home Mortgage Disclosure Act	223
Fair Housing Act	101

NCUA, at this time, is not fully utilizing mortgage lending information provided by credit unions for the purpose of assessing potential discriminatory lending patterns in those institutions.

However, according to E&I, several variables have influenced decisions by NCUA to focus resources on other areas at the expense of further developing fair lending review procedures such as:

- A limited volume of complaints from consumers about fair lending issues, and

- During examinations, NCUA has not uncovered a material volume of substantive violations related to fair lending issues.

**RECOMMENDATION:** NCUA should follow through on its plan to develop and implement an analysis method of the universe of credit union HMDA data for the purpose of determining potential discriminatory lending patterns.

**MANAGEMENT RESPONSE:** Management agreed with our recommendation and plans to implement corrective action in 2009.

**OIG RESPONSE:** We agree with the proposed action.

**SENT VIA E-MAIL**EI/RAB:rab  
SSIC #1910

**TO:** Inspector General William DeSarno  
Office of Inspector General

**FROM:** Executive Director J. Leonard Skiles /S/  
Office of the Executive Director

**SUBJ:** Home Mortgage Disclosure Act Data (HMDA) Analysis Review  
OIG Report #OIG-08-09

**DATE:** November 3, 2008

Examination & Insurance (E&I) concurs with your recommendation to continue developing and then implement an analysis methodology for the credit union HMDA data for purposes of determining potential discriminatory lending patterns. Barring unforeseen difficulties, E&I has set a goal of completing this project in 2009.

E&I would like to note that HMDA data, in and of itself, does not serve as conclusive evidence of the merits of an individual credit union's lending practices because the data does not document vital factors such as an applicant's credit history, debt-to-income ratio, or loan-to-value ratio. As such, E&I believes the HMDA data is better suited to serve as an indicator of potential discriminatory lending rather than actual discriminatory lending. Therefore, the Agency will continue to place emphasis on monitoring compliance with fair lending laws and regulations through the safety and soundness examination process, fair lending examination program, and credit union member complaint process.

If you have any questions, contact Program Officer Roger Blake in E&I at 703-518-6385.

cc: James Hagen, Assistant Inspector General for Audits