Home Mortgage Disclosure Act Public Hearings, August 5, 2010
Panel Two: Preston DuFauchard

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.