Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

October 15, 2019

RE: Docket No. CFPB-2019-0020; Advanced Notice of Proposed Rulemaking — Home Mortgage Disclosure (Reg. C) Data Points and Coverage (RIN 3170-AA97)

Dear Madam or Sir:

The undersigned 27 community, civil rights, housing, and consumer advocacy organizations urge the Consumer Financial Protection Bureau (CFPB) to maintain the Home Mortgage Disclosure Act (HMDA) data elements that the CFPB added and enhanced pursuant to statutory directives and discretionary authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). The CFPB does not have the authority to eliminate data elements that are required by statute, and it should not eliminate the additional data that Dodd-Frank authorized the Bureau to collect to further the statutory goals of identifying predatory lending practices and monitoring how financial institutions are serving communities. The CFPB added these factors only after a robust and deliberative process involving all stakeholders, and the additional data elements significantly further the agency's mission to ensure that "consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination."[1]

The new or newly modified data elements provide critical information necessary to more fully realize the statutory purposes of HMDA to assess whether lenders are meeting the housing and housing credit needs of local communities, to help local governments determine whether public and private investments are adequately supplying residential housing and other essential community development needs, and to identify discriminatory lending practices and patterns and enforce antidiscrimination statutes.

HMDA's data elements have been gradually expanded since the statute was passed in 1975 and each data enhancement substantially improved the utility of the data to fulfill HMDA's statutory purpose — by adding information on the applicants and the disposition of loans rather than solely on the originations, adding flags for higher-priced loans, and more. These additional data elements have provided vital information that demonstrated inequitable access to housing credit for people of color, lower-income people, communities of color and lower-income areas.

But the limitations of the HMDA-disclosed data meant that it was insufficient to document the targeting and increase of high cost and risky mortgages, and the growing risk of the mortgage crisis that drove the 2008 Great Recession. Although researchers, advocates, and community groups presented persuasive evidence that subprime lenders were preying on borrowers of color and lower-income borrowers by disproportionately offering them abusive high-cost loans with risky features, regulators largely turned a blind eye to the unfolding calamity, and their inaction was facilitated by the gaps in the data.

[1] Pub. L. 111-203 §1021(a)(2).

The mortgage meltdown went on to push nearly 8 million families into foreclosure and lowered the national homeownership rate, dramatically so for African American, Latinx, and low- and moderate-income families.[2]

The 2015 CFPB HMDA data expansions and enhancements close these gaps and provide essential new information on loan prices and costs (interest rates, points and fees, debt ratios and more), loan features (negative amortization, balloon payments, reverse mortgages, cash-out refinance and more), housing and affordable housing availability (enhanced data on multifamily and manufactured home lending, including more lender coverage, units and affordable units, and more), and applicant demography (age and disaggregated race and ethnicity data).

America is currently facing a growing housing affordability crisis, with rental costs consuming a rising share of income for moderate- and lower-income families and home purchase prices increasingly out of reach for many households and individuals, even with historically low interest rates. The affordability impacts are especially pronounced for families of color because of the persistent and worsening racial income and wealth inequality and longstanding patterns of housing discrimination. Under these circumstances, the expanded data is more important than ever to fulfill HMDA's statutory purposes and provide information that communities, every level of governments, and the public need.

The new data provides more and more textured data on affordable housing that is essential to assess private and public investments in residential housing markets, including the additional multifamily and manufactured housing data added pursuant to CFPBs discretionary authority. It also improves information on housing credit access and availability by providing essential additional data on loan prices, loan terms, and loan features. The CFPB added data on reverse mortgages, detailed loan cost data (interest rate, origination charges, and lender credits), and debt burden (debt-to-income ratio and combined loan-to-value ratio) that substantially enhance assessment of costs, terms, and suitability. This makes it possible to evaluate whether certain classes of borrowers are disproportionately receiving higher-prices, more unfavorable terms, or less suitable loan products that could make it harder for borrowers of color or lower-income borrowers to sustain their homeownership.

Not only does this provide a clearer picture of credit availability but it provides indispensable information to identify patterns or practices of lending or housing discrimination necessary to enforce the law and to help individuals and families build wealth and avoid financial disaster. The addition of disaggregated race and ethnicity data for Asian and Latinx categories makes it possible to evaluate credit access and discriminatory patterns within these populations and communities that could be obscured by the broader Asian race and Latinx ethnicity categories. CFPB should expand disaggregated race and ethnic data collection to more groups, such as Native Hawaiian and Pacific Islander communities.

If this data was available prior to the financial crisis, it would have provided clear evidence of the lending industry's widespread pattern of predatory, abusive, and discriminatory practices that led to the subprime and exotic mortgage disaster and wave of foreclosures. It would have been significantly harder for

[2] CoreLogic. "United States Residential Foreclosure Crisis: Ten Years Later." March 2017; U.S. Census Bureau. Housing Vacancies and Homeownership. Historical Tables 16 and 17.

regulators, and all policy makers, to ignore the signs that action was necessary to take action to curb the predatory lending that harmed millions of families and ultimately imperiled the global economy.

The new and enhanced HMDA data is therefore extraordinarily important, and its value greatly exceeds the very modest costs to collect and report this information. The lending industry has always contended that additional HMDA reporting imposes insurmountable costs that threaten credit access. But there is no evidence that this is the case. After the application data and high-cost loan data was added in 1991 and 2004, respectively, mortgage applications and originations continued to increase.

The reality is that the lending industry already collects virtually all of the new and enhanced HMDA data for their own underwriting purposes or to comply with other federal statutes (such as the Real Estate Settlement Procedures Act and Truth in Lending Act). Even based on CFPB's high-end estimate, the costs of collecting and reporting this data (about $38.50 per loan) is a negligible portion — only 0.4 percent — of the total loan production expenses ($8,278 per loan according to the Mortgage Bankers Association).[3]

CFPB must not dilute or weaken the new and enhanced HMDA data elements that the Bureau incorporated pursuant to directives and authority under Dodd-Frank. The new data provides critical and necessary information to assess credit markets, housing supply, and the prevalence of predatory and discriminatory mortgage lending that benefits the individuals, families and neighborhoods; community organizations and community development organizations; local governments; and federal lawmakers and regulators.

Sincerely,

Alaska PIRG
Americans for Financial Reform Education Fund
Alliance for Housing Justice
Alliance of Californians for Community Empowerment
California Reinvestment Coalition
Center for Community Progress
Center for Popular Democracy
Center for Responsible Lending
Connecticut Fair Housing Center
Consumer Action
Habitat for Humanity New York City
Hedge Clippers
Kentucky Resources Council, Inc.
Mobilization for Justice
NAACP
National Association for Latino Community Asset Builders
National Consumer Law Center, on behalf of its low-income clients
National Council of Asian Pacific Americans
National Fair Housing Alliance
National Housing Law Project
National Housing Resource Center
New Jersey Citizen Action
People's Action
Strong Economy For All Coalition
U.S. PIRG
VOICE
Woodstock Institute

[3] CFPB estimated it would cost $23 per loan application for the least sophisticated lenders to comply with the 2015 HMDA rule, including data added by statutory requirements and discretionary authority. In 2018 there were 12.9 million applications and 7.7 million originations, making the per origination cost $38.50. *See* 80 Fed. Reg. 208. October 28, 2015 at 66296; CFPB. "Data Point: 2018 Mortgage Market Activity and Trends." August 2019 at 13; Mortgage Bankers Association. [Press release]. "Independent mortgage bankers' production volume and profits down in 2018." April 17, 2019.