May 25, 2017

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

Re: Comments to Docket No. CFPB-2017-0010 or RIN 3170-AA64 – Proposed HMDA Amendments

Dear Members of the CFPB,

I thank you for the opportunity to offer comments. I am writing on several issues in the proposed amendments. I have also added a few comments on industry readiness given our prominence in the industry.

Background

My company, QuestSoft, as of today provides HMDA software for 2,118 HMDA reportable lending institutions. We fully expect with the introduction of the Legal Entity Identifier that counting CUSO and multi-institution companies, we will surpass 2,500 institutions or nearly half of all HMDA report submissions by 2018.

QuestSoft has offered an active 2018 CFPB HMDA Test Module available free to our customers since January 1, 2017 that can import and test data from loan origination software companies as they update their systems throughout this year.

In addition, our customers have been the recipient of over 15,000 CRA and HMDA examiner audits over the years. Our geocoder last year was used to accurately submit about 6 million of the 14 million records that were processed by the FRB under HMDA. Two of the top 3 non-depository institutions use us for HMDA submissions. 71 of the top 100 credit unions submit their data with us. We are currently working with at least 35 LOS systems and proprietary systems to prepare for the CFPB HMDA.

Issues addressed in our response

While there are many areas where others may comment, I am going to limit my remarks to the following areas:

1. Bona Fide Errors and Proposed Geocoding Safe Harbor
2. Demographic Data Collection – Specifically as it related to Ethnicity and Race Subcategories
3. Reporting Threshold Adjustments
4. NMLSR ID Reporting
5. Industry Readiness

Bona Fide Errors and Proposed Geocoding Safe Harbor

The Bureau is proposing providing a safe harbor for geocoding errors on pages 77, 78, 93 and 94 of the proposed rule amendments. The wording on page 93 states:

"The proposal would establish that a census tract error is a bona fide error and not a violation of HMDA or Regulation C if the financial institution obtained the incorrect census tract number from the geocoding tool provided by the Bureau, provided the financial institution used the tool appropriately, the tool provided a census tract number for the property address entered, and the financial institution entered an accurate property address into the tool."

The bureau is correct when it indicates that geocoding is a pain point of the industry. However, we believe the proposed remedy will have many unintended consequences for low & moderate loan identification (LMI) and also will impact the accuracy of Community Reinvestment Act reporting. Therefore, we are highly recommending against providing a safe harbor for the CFPB geocoder unless more accurate methods of geocoding are also provided a similar safe harbor.

Geocoding for the purposes of HMDA has evolved over the years into a fairly accurate science for third party vendors provided an accurate address is presented. Our company, for example, spends in excess of $1 million per year in licensing fees to ensure superior accuracy. As a result, we have updated our systems four times in the past 12 months adding on average over 400,000 records to our databases PER QUARTER. For builders, we average between 3-9 months coverage earlier than the FFIEC site. For rural areas we provide exact locations where the FFIEC data until recently provided sparse coverage. Our competitors use similar methods to produce quality.

The bureau offers as one of the reasons for establishing a new geocoder the lack of access to affordable geocoding. This is as we provide 100 records free of charge to assist with lower volume lenders just for the reasons noted. But here is the real problem . . . lender concern of using a more accurate geocoder over the safe harbor advantages offered by the Bureau.

The proposed geocoder being offered from the Bureau is based on a combination of TIGER Census Tract Line Files combined with public 911 and other databases. TIGER data from the Census Bureau is notoriously inaccurate when it comes to the identification of which side of the street the "dot" for the property is on and what I would call "regulator" quality results. QuestSoft would be happy to use these FREE sources if they would meet current examination quality. However, they don't and therefore, just like the current FFIEC site, we have paid for better data. To us, accuracy is only thing defendable.

Since the regulatory change was proposed by the Bureau, I have had at least twenty conversations with lenders concerned about using our geocoder because they feel they will be fined or penalized. They have indicated that they don't value if the result is proven more accurate, they value the safe harbor. To them, if the answer is wrong from the CFPB at least they won't get into trouble for it so would they rather defend an accurate answer with maps or show off the get out of fines free card. Consistently, these lenders contacting me said they didn't care about the accuracy, they just don't want to be fined out of business. The CFPB could produce a geocode 10 miles away from the property and that is what will be used if there is a safe harbor pass.

If the data was used by the industry for just HMDA reporting, we could probably support their argument and merely switch our services exclusively to the free Bureau provided offering. But I have also talked with banks over their CRA exams which are guided by different guidelines and secondary marketing executives concerned with premiums paid for LMI whole loan trading. Some larger banks seem concerned that this safe harbor for just the CFPB geocoder and not more accurate geocoding systems will have an adverse effect on the reliability of their LMI reporting or whether the loans being purchased with incentives to encourage originating to LMI borrowers will be reliable.

Additionally, with six months to go, nothing has been tested. Therefore, we recommend that the bureau reconsider this suggested safe harbor and do one of two things.

a. Continue the use of the FFIEC Geocoder for 2018 and pull the proposed geocoder from use until the accuracy can be affirmed by testing against the FFIEC geocoder and commercially available sources AND/OR

b. Offer the same Bona Fide Error/Safe Harbor protections to more accurate geocoding methods so that the integrity of the secondary market for LMI lending can be maintained and so that lenders are not forced into abandoning accuracy in exchange for a safe harbor.

The incentive to the industry MUST always have an emphasis on accuracy or else the data will be unreliable for the purposes of fair lending, CRA and general lending analysis purposes necessary to ensuring proactive lending to all. Our million dollar investment is fairly worthless and unnecessary if I compete with a government agency that has to exclusively offer a safe harbor to only its own systems to overcome the public concerns about accuracy and performance.

Demographic Data Collection

Of all of the areas of the new data collection under the CFPB HMDA Rule, the collection of new subcategories for ethnicity and race is turning out to be most troublesome to implement. Not only does the data collected add unwelcome complexity to the consumer experience from a borrower perspective, the burdens of staff training, lack of coordination with the release of a new URLA (1003), concerns over monetary penalties for improper collection, and a lack of publically available census data to tie into its collection make this a confusing and unnecessary burden to the industry in our opinion. As a result, QuestSoft's recommendation is to suspend collection on the new subcategories and continue collection on the current categories until 2019 or later.

a. **Not easy to provide supporting documents without significant instruction** - The delays in release of the new Universal Residential Loan Application (URLA – AKA FNMA 1003) makes collection of the expanded GMI data very difficult to explain to borrowers and implement within lending organizations. The suggested supplemental form is awkward and more intimidating than helpful. In addition, the suggestion that lenders should place a red X over the GMI information on the current URLA almost seems like a violation or something shady to the loan information collection process. The bureau should insist that the collection of the demographic data take place on the URLA, or if no URLA is used, then on the supplemental form. It should also delay implementation to a time NO EARLIER than when the new URLA forms are mandated for use.

The currently proposed collection of data under this demographic data mandate will extend the time to complete a loan application and we feel this is counter to the mission statement of the Bureau.

b. **Staff Training Concerns** – QuestSoft has been conducting live training seminars to hundreds of our customers. During these events, it is clear that many of the attendees have been aware of the data collection requirement but had not considered all of their lending channels or training needed for front line staff to implement this data collection requirement.

   Though we are able to educate and discuss these issues with customers that attend our events, there are FAR MORE companies that are not hearing this message yet. As a result of this lack of a mandated process from FNMA and FHLMC due to form delays, we feel this single requirement will become the largest train wreck in the new regulation.

c. **Lender concerns over improper collection** -- There are substantial concerns among lenders with breakdowns in policies and procedures regarding the collection of the demographic data. These range from loan officers improperly selecting on behalf of the borrower to how to properly guide a borrower through an online application.

   Nowhere is this concern and fear as pronounced as in the case of the free form “Other” fields. Lenders have been told that they are to accept any entry as a borrower’s valid choice and not provide correction for even spelling errors. This means that a borrower can provide data that is either intentionally in error or a response that will have no statistical relevance. If someone answers “Klingon” for race and you get 200 like responses because you advertised in a Star Trek magazine, do we now have a new protective class for fair lending purposes?

   Our STRONG recommendation is to remove the other category as a free form entry and, if the category remains, develop a series of additional subcategories that would be acceptable for collection. For example, if someone identified as Asian, then the subcategories would only allow “Other” race selections limited to the region (Pakistani, Vietnamese, Mongolian, Laotian, and finally Other but only as a selection within a list of subcategories. We also recommend that the American Indian and Alaskan Native field for other be restricted to the 560+ official tribes as established under federal mandate.

d. **Lack of Publicly available demographic cross reference census data.**

   Changes to the 2004 HMDA data file as currently used made sense because of the data collection held in Year 2000 by the US Census Bureau. In that census collection, the new categories had already been established by the Clinton administration in Year 2008 as a way to expand minority lending. However, there is absolutely no reference nor consistency in the use of this data as proposed by the CFPB.

Shouldn't there be some sort of data available that will allow an institution to draw comparisons to the demographics of the general community? This was the argument supporting the new data collection in 2004 and this has been used for the past 10 years as a way to compare redlining and other abusive lending practices. It seems there is no valid data analytics that will end up being able to extract.

However, here again lenders are left to very subjective measures of performance. Using our example of Klingons, if we show Klingons somehow showing a statistically supported very poor denial rate or interest rate in comparison to the white communities served by the lender, could there be a case made that people who self-identified as Klingons need to be established for that lender as a protected class requiring corrective action, fine and appropriate public damaging CFPB press release? Again this is yet another reason why the additional demographic data collection is becoming a major concern among lenders and industry experts.

For these reasons, we urge the bureau to delay implementation of the additional demographic data by a year and implement the feature only when:

1. The URLA is released reflecting the proper data elements
2. The other fields are restricted to just a longer list of subcategories so that it can become statistically relevant for research and fair lending purposes.
3. The bureau provides some sort of safe harbor for the collection of this data until there becomes publicly available tract level aggregate data whereby an institution can accurately compare itself to the demographics of the communities they are serving.

Reporting Threshold Adjustments

The Bureau has requested comment on the clarification of 1003.2(g) to amend the word "each" with "either" for reporting thresholds. (Page 28-32). In my travels, the use of "each" was confusing. Conversations would always require examples to help determine the proper threshold action. In addition, I would often be asked by someone in the crowd if it would be OK for an institution who had 50 loans one year to intentionally lower their origination volume in one year so that they would receive up to a three year pass on HMDA reporting regardless of their volumes in subsequent years.

Therefore, we strongly support the change to the word from "each" to "either".

NMLSR ID Reporting -

The Bureau on pages 67-70 of the proposed rule changes proposed exemptions for the reporting of the Nationwide Mortgage Licensing System Loan Officer ID number as required under the new HMDA rules (4(a)(34) Reporting of the NMLSR ID) . The exemption would make supplying a NMLSR ID voluntary for loans purchased that were originated prior to 1/1/2018.

QuestSoft supports the CFPB proposal to change this rule to accommodate pre 2018 loan originations. However, there is still some industry concern about who supplies the NMLDR ID and ULI in the event that you are purchasing a loan from a company that doesn't have a HMDA reporting requirement.

Industry Readiness

While not a comment on a specific issue raised in the proposed HMDA revisions, there is a concern in the industry regarding the readiness of the CFPB to supply critical systems or information in time for the rule to go into effect. I know that some parties have addressed this in requesting a complete one year suspension of the collection requirements. Here are our thoughts…

Tech Readiness - We are working with over 35 vendors to update them on the new CFPB requirements. We are then conducting webinars and other training events to begin the process of having their customers feel confident in the interfaces. For most established vendors used to HMDA filing, this process seems fairly smooth from a data point of view. Since most data elements are already a part of the systems, this is not anywhere near the technical challenge as TRID was. These vendors are tending to project CFPB HMDA support of the data elements by August.

We expect most vendors specializing in HELOCS and Reverse Mortgages to have the most delays that may take them into late this year. Their systems have traditionally not collected the HMDA data and their users are often working in a consumer channel rather than residential/mortgage channel meaning the lack the training, longer loan cycles, etc. of complying with the more complicated mortgage regulations.

QuestSoft itself has been out in front of this regulation issuing all of our changes in October 2016. However, despite our having a test version since January 1, 2017, the biggest issue is going to be the data scrubbing elements and for that, the error codes provided by the Bureau are absolutely critical. It does seem interesting that after a tongue lashing of the industry over TRID, the two and a half year timetable for HMDA appears to be going down to the wire with delays from the GSE's and several rollbacks of the CFPB deadlines. If the CFPB is able to get back on track soon, there is a possibility that tech system readiness delays will be limited to the HELOC side and significant training issues regarding the new demographic information.

Institution readiness – With over 2,000 active financial institutions using our software, QuestSoft has a fairly accurate barometer of the industry. Our internal stats are that 40% of our customer base has converted over to our new software capable of running the 2018 CFPB HMDA today. While that puts us on track for full conversion by year end, it will be tight. Again, the training issues and front line data collection issues of the new Demographic information loom the largest for us.

Closing Recommendations

Following is a summary of our comments regarding suggested actions on the part of the CFPB regarding various HMDA elements.

1. Don't provide a safe harbor (eligible Bona Fide errors) to the CFPB geocoder unless you also provide such safe harbor to more accurate systems or else data quality and confidence in LMI purchases for CRA purposes will substantially suffer. The CFPB geocoder is not tested and based on the data sources, might be 30% less accurate than the FFIEC and other sources that incorporate enhanced databases.

   If such additional safe harbor protections to more accurate systems cannot be provided, we recommend delaying the use of the CFPB geocoder in production for one year and allow testing next year by vendors and statisticians to determine if there will be disruptions or issues in the LMI and CRA markets regarding use of the CFPB geocoder. We know lenders that don't purchase these loans won't care because they just want the safe harbor and not be fined but the industry will suffer without this delay.

2. The demographic data is an approaching train wreck. Delay the collection of this data for a year, determine the true analytical value of these additional subcategories and adjust the collection to specific pre-selected categories that can be adjusted from year to year.

3. Most other suggestions for clarifications in the proposed rule changes document are fine and supported by I and my company.

4. The industry is nervous about the pending regulation because there are so many commitment projections from the CFPB that have been delayed. If the CFPB can get out the validity/quality errors plus offer the ability to upload test files for submission of the entire rule with error checks, the industry may be able to be more confident.

   Otherwise, delay the regulation by a year so that the URLA and other requirements of the regulation can be fully tested by vendors and confidence instilled in the lender and vendor community.

Thank you for offering the ability to submit this response and I look forward to working with the Bureau to insure accurate, high quality submissions for years to come.

Sincerely,

Leonard Ryan
President
QuestSoft Corporation

HMDA RELIEF/CRA RELIEF/Instant Geocoder/Instant HMDA/Compliance RELIEF