

United States House of Representatives  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, D.C. 20515

June 11, 2019

Director Kathy Kraninger  
Consumer Financial Protection Bureau  
1700 G St. N.W.  
Washington, D.C. 20552

Dear Director Kraninger:

We write to express our strong concerns with recent announcements from the Consumer Financial Protection Bureau (“Consumer Bureau”) regarding the Home Mortgage Disclosure Act (“HMDA”) and the fate of the HMDA Explorer tool. We urge you to rescind the Notice of Proposed Rulemaking (“NPRM”) that would raise the HMDA threshold for reporting closed-end mortgage loans,<sup>1</sup> as well as the Advance Notice of Proposed Rulemaking (“ANPR”), which were both released on May 2, 2019 and would prevent the public from learning about predatory and discriminatory lending activity in local communities, particularly rural communities. We further urge the Consumer Bureau to cease its plans to retire the HMDA Explorer tool and the Public Data Platform Application Programming Interface (“API”) that has helped consumers, researchers and others understand lending patterns in communities throughout the country.

The enactment of S. 2155 into law last year, recklessly exempted about 85 percent of depository institutions from reporting enhanced HMDA data about lending in underserved communities.<sup>2</sup> Now, the Consumer Bureau is proposing to cut deeper, exempting 1,720 financial institutions from basic HMDA reporting requirements for closed-end mortgage loans. Currently, financial institutions that originated at least 25 closed-end mortgage loans in each of the two preceding calendar years are required to comply with HMDA. The NPRM proposes to raise this threshold to as high as 100 closed-end mortgage loans in each of the two preceding calendar years. Given how this exemption is structured, this change would likely result in less mortgage data reported particularly in rural communities and other areas served by small lenders, making it harder to identify predatory or discriminatory lending in these areas. It would also hinder the ability of public officials, who use HMDA data to develop and allocate housing and community development investments, to respond to market failures when necessary. By proposing to exempt about half of lending institutions from reporting data about closed-end mortgages,<sup>3</sup> the Consumer Bureau appears to be willing to sacrifice information that can make a difference in the lives of creditworthy, lower-income consumers who have needlessly been denied access to credit and

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<sup>1</sup> See <https://www.consumerfinance.gov/about-us/newsroom/bureau-proposes-changes-hmda-rules/>.

<sup>2</sup> Congress amended HMDA via the Dodd–Frank Wall Street Reform and Consumer Protection Act to require lenders to disclose additional information regarding their mortgage lending activities, which the CFPB finalized as a rule in 2015 and through which it added appropriate data points. These necessary improvements were in response to concerns about predatory and discriminatory lending in the mortgage market that was exposed in the 2007-2009 financial crisis. S.2155 reversed many of these gains by exempting institutions that originated fewer than 500 closed-end mortgage loans or less than 500 open-end lines of credit in each of the preceding two years from reporting certain 2015 HMDA rule requirements.

<sup>3</sup> Currently, about 22 percent of depository institutions are exempt from having to comply with HMDA reporting. The current threshold exempts financial institutions that originate fewer than 25 closed-end mortgage loans in either of the two preceding calendar years. The proposal notes that under a threshold of 100 closed-end mortgage loans for either of the two preceding calendar years, about 3,240 institutions would continue to report HMDA data, while an additional 1,720 institutions would be excluded. These newly exempted firms would be in addition to previously exempted institutions. The Consumer Bureau has estimated 1,400 institutions are already exempt through the current 25 closed-end mortgage threshold.

opportunities to build wealth, particularly via homeownership. What is worse is that the proposed 100 closed-end mortgage loan threshold could actually be a trojan horse for an even more extreme rollback of HMDA reporting given that the Consumer Bureau specifically asked for comments on alternative thresholds as well.

The Consumer Bureau under your leadership is neglecting its own analysis from just a few years ago. As the agency's proposed rule concedes, when the Consumer Bureau finalized its 2015 HMDA Rule and explored setting a reporting threshold higher than 25 closed-end mortgage loans, "the Bureau determined that a higher closed-end coverage threshold would have a material negative impact on the availability of data about patterns and trends at the local level and the data about local communities are essential to achieve HMDA's purposes. The Bureau concluded that, if it were to set the closed-end coverage threshold higher than 25, **the resulting loss of data at the local level would substantially impede the public's and public officials' ability to understand access to credit in their communities**"<sup>4</sup> (emphasis added).

Furthermore, the Consumer Bureau recently announced that it will be retiring its HMDA Explorer tool for new data as well as its Public Data Platform API that powers it in the near future.<sup>5</sup> The HMDA Explorer tool and its API have allowed for the public to easily access and analyze millions of documents on mortgage lending. Importantly, the user-friendly online tools allow consumers, journalists, academics, public officials, and consumer advocates to measure trends and disparities in mortgage credit access. Unfortunately, the Consumer Bureau's website states that the Federal Financial Institutions Examination Council ("FFIEC") will introduce its own query tool "in the coming months," and that the HMDA Explorer tool and Public Data Platform API will subsequently be retired, but the website offers no specific timeline or details about the features or usability of the new FFIEC query tool. Additionally, as the Public Data Platform API was an open-source tool that could be used in the public interest to create additional open-sources tools benefitting the public, removing any open-source functionality will further diminish the general public's ability to study the mortgage industry.

These developments come at a time when the public needs more transparency about harmful lending trends, not less. A 2018 investigative report by Aaron Glantz and Emmanuel Martinez at Reveal from the Center for Investigative Reporting showed widespread discrimination in bank lending. As Mr. Glantz recently testified before the House Financial Services Committee,<sup>6</sup> this report, which was a 2019 Pulitzer Prize Finalist in Explanatory Reporting, was based on 31 million records of HMDA data, and concluded that modern-day redlining persists in 61 metro areas across the country. Specifically, black mortgage applicants were turned away by banks at significantly higher rates than whites in 48 cities, Latinos in 25, Asians in nine and Native Americans in three.<sup>7</sup>

In addition, these developments are troubling in light of several remarks you recently made. While you acknowledged the Consumer Bureau's transparent consumer complaint database supported the agency's mission to protect borrowers, you refused to rule out that the Consumer Bureau may make that database private under your direction.<sup>8</sup> Instead of robustly enforcing the law, you also stated, "Empowering consumers to help

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<sup>4</sup> Consumer Bureau, "Notice of Proposed Rulemaking regarding Home Mortgage Disclosure (Regulation C)," (May 2, 2019), pp. 17-18, available at: [https://files.consumerfinance.gov/f/documents/cfpb\\_nprn-hmda-regulation-c.pdf](https://files.consumerfinance.gov/f/documents/cfpb_nprn-hmda-regulation-c.pdf).

<sup>5</sup> See <https://www.consumerfinance.gov/data-research/hmda/api-retirement/>.

<sup>6</sup> See <https://financialservices.house.gov/uploadedfiles/hrg-116-bal5-wstate-glantz-20190409.pdf>.

<sup>7</sup> Aaron Glantz and Emmanuel Martinez, "For people of color, Banks are shutting the door to homeownership," Reveal from the Center for Investigative Reporting (2018), available at <https://www.revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/>.

<sup>8</sup> Pete Schroeder and Katanga Johnson, "Exclusive: New U.S. consumer watchdog chief to continue review of complaints database, fair lending," Reuters (Apr. 18, 2019), available at: <https://www.reuters.com/article/us-usa-cfpb-interview-exclusive/exclusive-new-us-consumer-watchdog-chief-to-continue-review-of-complaints-database-fair-lending-idUSKCN1RU244>.



themselves, protect their own interests, and choose the financial products and services that best fit their needs is vital to preventing consumer harm...<sup>9</sup> It is hard to comprehend how the Consumer Bureau is empowering consumers by giving them less data about financial products and services, fewer tools to understand that data, and little enforcement of their protections under the law.

This cannot be overstated: recent data has made clear that discrimination in lending continues to be a major problem, with conduct such as redlining continuing to be pervasive in too many communities across the country. To promote fair lending, homeownership, and stronger communities, the Consumer Bureau must ensure there is easy access to lending data. By putting much of this information back in the shadows, the Consumer Bureau is abandoning its mission and giving a free pass to those that would discriminate against otherwise creditworthy borrowers.

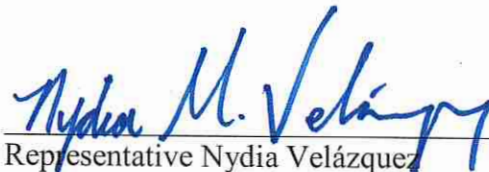
Therefore, we ask that the Consumer Bureau immediately rescind the Notice of Proposed Rulemaking and the Advance Notice of Proposed Rulemaking on HMDA. We also ask for a timeline and detailed description comparing the features and functionality of the FFIEC query tool compared to the HMDA Explorer tool and Public Data Platform API, and we strongly urge you to cancel plans to retire these helpful tools. We look forward to your prompt attention to these urgent matters and ask that you respond in writing no later than June 21, 2019.

Sincerely,



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Representative Maxine Waters  
Chairwoman  
Committee on Financial Services



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Representative Nydia Velázquez

cc: The Honorable Patrick McHenry, Ranking Member

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<sup>9</sup> David Lazarus, "CFPB head, charged with protecting consumers, says people need 'to help themselves'", Los Angeles Times (Apr. 19, 2019), available at: <https://www.latimes.com/business/lazarus/la-fi-lazarus-cfpb-kraninger-takes-consumers-to-school-20190419-story.html>.

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