WOODSTOCK INSTITUTE

Advancing Economic Security and Community Prosperity

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

July 13, 2015

Re.: Request for Information on Student Loan Servicing (Docket No. CFPB-2015-0021-0001)

Dear Ms Jackson.

I am writing from Woodstock Institute in response to the Consumer Financial Protection Bureau's Request for Information on Student Loan Servicing (Docket No. CFPB-2015-0021-0001). Woodstock Institute has extensive experience analyzing and developing recommendations to improve the practices of servicers of a variety of financial products, including mortgages and credit cards, as well as experience analyzing the impacts of student loans on traditionally underserved populations. Since its founding in 1973, Woodstock Institute has argued for increased transparency for financial products and services as a way to empower communities to support institutions that serve community needs and to identify financial institutions that fail to meet the needs and hold those institutions accountable. We advocated for the passage of the Home Mortgage Disclosure Act (HMDA) in 1975 and have used HMDA data over the past forty years to analyze whether banks are adequately meeting neighborhood credit needs. We have publicly commented on Community Reinvestment Act (CRA) examinations and applications for mergers and acquisitions and developed and monitored community investment agreements with financial institutions. We have documented disparities in mortgage lending to low-wealth communities and communities of color, and provided technical assistance to community-based organizations. This comment letter draws upon Woodstock's experience with HMDA and other financial services datasets to inform its response to the CFPB's questions regarding how public data on student loans could be improved based on lessons learned from publicly available data on other financial products and services.

The philosophy of the Home Mortgage Disclosure Act

Many of the reasons for HMDA reporting requirements are directly applicable to the need for expanding publicly available data on student loans. By publicly disclosing loan-level data on mortgage and borrower characteristics, HMDA created a space for community advocates and researchers to engage in "regulation from below"[1] that complements the work of, and induces action from, formal regulatory agencies, elected officials, and financial institutions. HMDA empowers citizen monitors and policymakers to:

[1] Fishbein, Allen and Ren Essene. "The Home Mortgage Disclosure Act at Thirty-Five: Past History, Current Issues." Joint Center for Housing Studies at Harvard University. August 2010. Page 1.

29 E. Madison, Suite 1710 | Chicago, IL 60602 | 312.368.0310 (p) | 312.368.0316 (f) | woodstockinst.org

- Determine whether financial institutions are serving the housing needs of their communities;
- Assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and,
- Assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.[2]

Congress explicitly recognized the role that public data play in combating discrimination by expanding the data collected and published through HMDA in 1989, stating that "a primary purpose of such reporting is to assist regulatory agencies in identifying possible discriminatory lending patterns that warrant closer scrutiny…. It is essential that the data submitted to the agencies be in a form that facilitates the task of identifying any discriminatory lending patterns that disadvantage women, minority borrowers, or predominantly minority or low- or moderate-income neighborhoods."[3] In addition to spurring regulatory action, the fact that mortgage lenders know that their HMDA data will be publicly scrutinized can induce lenders to proactively assess their lending practices and change procedures to better serve disadvantaged populations.

Consumers have similar concerns about whether financial service providers are meeting other credit needs of their communities or engaging in discriminatory behavior. Indeed, original drafts of HMDA would have required reporting data on small business credit and consumer deposit accounts, although these provisions were eventually negotiated out of the final bill.[4] While student loans were not a commonly used financial product when Congress passed the HMDA in 1975, advocates today have similar concerns about whether the Department of Education and private student lenders are adequately meeting the higher education needs of underserved communities, and the impact student loans have on students' lifelong economy opportunity and the broader economy.

What HMDA contains

HMDA functions as an effective tool to promote transparency because the dataset contains a broad array of variables that allow analysts to investigate policy-relevant questions. Congress and regulators have expanded the data reported through HMDA over the years in order to stay up-to-date with the evolving mortgage market and address limitations such as the lack of comprehensive underwriting variables. The CFPB is currently implementing changes to HMDA mandated by the Dodd-Frank Act that will expand the range of underwriting variables in HMDA. The vast majority of mortgage lenders must report to HMDA every year, producing a detailed sample that is representative at very small geographies, and the data are reported at the census tract level.

One key limitation of HMDA is that it contains data only on originations, not loan performance. This limits analysis of and advocacy around barriers to affordable loan modifications and the disparate impact of delinquency, foreclosure, and negative equity on particular communities. To address this limitation, the Dodd-Frank Act directed the Federal Housing Finance Agency (FHFA) to develop the National Mortgage Database (NMDB), which surveys a nationally representative random sample of mortgages on their performance over time. While the NMDB is still under development, the FHFA has released a list of variables under consideration. See table below for a list of variables included in various mortgage datasets, including current HMDA, expansions to HMDA mandated by Dodd-Frank, additional expansions to HMDA proposed by the CFPB, and potential variables for NMDB.

---

[2] "Privacy Impact Assessment of the Home Mortgage Disclosure Act Data Processing System." Board of Governors of the Federal Reserve System. September 2014. Page 3.
[3] Kolar, Joseph M. and Jonathan D. Jerison. "The Home Mortgage Disclosure At: Its History, Evolution, and Limitations." Buckley Kolar LLP. February 2006. Page 11.
[4] Fishbein op. cit. Page 12

Impact of HMDA

Citizen monitors have used HMDA to alert regulators to emerging problems with products and practices and to urge financial institutions to better serve the needs of their communities. HMDA has long been "the primary statistical tool used by community groups and others challenging bank merger and branch expansion requests pending before federal regulators."[5] Early in its history, advocates used HMDA to document the lack of credit in older, urban neighborhoods. As Congress added additional data fields to HMDA, advocates and regulators documented disparities in mortgage lending to people of color and low-income communities.[6] Federal regulators integrated HMDA into their fair lending monitoring and enforcement processes, while the Department of Justice and state Attorneys General used HMDA to guide enforcement actions and investigations.[7] Community advocates used findings from HMDA to quantify the need for mortgage credit in their communities, set lending targets with banks through community reinvestment agreements, and monitor progress on these agreements.[8] Some mortgage lenders took proactive steps to improve their lending practices by instituting "second review" procedures to review denials of rejected applications from people of color, expanding underwriting standards, creating products targeted at low- and moderate-income borrowers, and expanding outreach programs.[9] Over the course of its forty-year history, HMDA has been a critical tool for holding mortgage lenders accountable for meeting the credit needs of the communities they serve, spurring regulators to action, and educating the public about disparities in mortgage lending.

Variables in HMDA, proposed changes to HMDA, and proposed variables for NMDB
HMDA
Loan type
Purpose of loan
Preapproval
Property type
Owner-occupancy
Loan amount
Action taken
Geographic identifiers including city, state, county, MSA, and census tract
Ethnicity
Race
Sex
Gross annual income
Type of purchaser
Rate spread
High-priced loan
Lien status
Reason for denial

[5] Fishbein op. cit. Page 15
[6] Fishbein op. cit. Page 18
[7] Kolar op. cit. Pages 25-26.
[8] Pogge, Jean. "The Impact of HMDA on Credit Availability in Chicago Neighborhoods." Woodstock Institute. January 1985. Pages 2-3.
[9] Kolar op. cit. Page 15

Changes to HMDA mandated by Dodd-Frank[10]
Length of loan
Total points and fees
Length of teaser or introductory rates
Borrower age
Borrower credit score
Rate spreads
Prepayment penalties
Non-amortizing features
Loan officer unique ID
Loan unique ID
Property value
Improved property location information
Changes to HMDA proposed by CFPB[11]
Mandatory reporting of denial reasons
Debt-to-income Ratio
Qualified mortgage status
Combined loan-to-value ratio
Automatic underwriting systems results
Affordable housing programs
Manufactured housing data
Proposed variables in NMDB[12]
Mortgage balance
Real estate transaction
Price of property
Terms of mortgage
Borrower creditworthiness
Loan performance from origination to termination
Sale in secondary mortgage market
Information on all cosigners, including second liens, other mortgages, and credit scores from one year before origination to one year after termination
Household demographic data on borrower
Physical characteristics of house
Physical characteristics of neighborhood
Performance data on other credit lines

[10] "Factsheet: Consumer Financial Protection Bureau Takes Steps To Improve Information About Access To Credit In The Mortgage Market." Consumer Financial Protection Bureau. February 7, 2014.
[11] *Ibid.*
[12] Federal Register, Vol. 79, No. 73. "Federal Housing Finance Agency. No. 2014–N–03. Privacy Act of 1974; System of Records." Wednesday, April 16, 2014.

Financial events in the last few years
Other assets/wealth
Current monthly payment
Delinquency
Bankruptcy information
Household income
Children
wage earners
Credit score at origination
Sales price
Down payment
Occupancy status
New vs. existing
County
Census tract

The need for better data on student loans

Consumer advocates have a number of concerns about the impact of student debt on educational and economic opportunity that cannot be addressed by the existing publicly available student loan data. Improving the availability of data on student loans can help identify potentially discriminatory products and practices at different institutions or by different lenders, or demonstrate whether certain protected classes are disparately impacted by student debt. Research using existing data indicates that there is reason for concern. Woodstock Institute found that, controlling for student and institutional characteristics, students at for-profit colleges are more likely to borrow, and often borrow more, than students at public and nonprofit colleges. The disparities were particularly high for Latino students at for-profit colleges.[13] With more complete data, we could further investigate reasons for the disparities in debt loads, identify particular institutions or lenders with high levels of disparities, and use these findings to urge regulators to investigate or take further action. In addition, the existing data do not allow us to determine whether these disparities in borrowing result in disproportionately high default or delinquency rates for for-profit college students and students of color.

Expanding publicly available data on student loans will also give consumer advocates the opportunity to analyze and inform policy decisions. For example, advocates could analyze data on the records of student loan servicers working with borrowers who struggle to repay their loans and use that information to influence the Department of Education's allocation of student loan servicing contracts. Data on loan performance by institution could help advocates identify loopholes in regulations designed to hold schools accountable for education quality, such as the gainful employment rule, and push for improvements. Comprehensive data on student loan performance could demonstrate a need for strong servicing standards, similar to the mortgage servicing standards and Credit CARD Act, for both federal and private student loans. Advocates could use student loan data to comment on Community Reinvestment Act examinations for private student lenders, since CRA directs banks to offer low-cost education loans in the communities that they serve.[14]

[13] Buitrago, Katie. "Starting out Behind: Trends in Student Loan Burdens at For-Profit Colleges" Woodstock Institute. May 2015.
[14] Housing And Community Development Act Of 1977—Title Viii (Community Reinvestment) Sec. 804 (d).

Principles for student loan data collection

Given the need for improved public data on student loans, we urge the CFPB to take the following principles into account when considering how to expand the student loan data landscape:

- **Granularity**—The Department of Education currently releases student-level data on student loans through the National Postsecondary Student Aid Study (NPSAS), which is released every four years and limits access to the loan-level data to researchers who can meet strict data security requirements. NPSAS contains many useful variables, but it is a survey that represents a small fraction of the total student body and is not representative at any geographic level below the national level. This severely limits the public's ability to assess how student debt may be disparately impacting different communities. Given the variations in the costs of education and student financial supports across states and municipalities, it is likely that students living in or attending schools in different areas will have different experiences with student debt that require targeted policy solutions, particularly in low- and moderate-income communities and communities of color. While there are limitations on what data can be released publicly under federal regulations protecting student privacy, the Department of Education and/or the CFPB should increase the sample size of student loan data surveys in order to release student loan data at the smallest geography possible while preserving student privacy.

- **Timeliness**—NPSAS is released every four years, which makes it difficult to document trends in student lending that do not align with the data collection years. For example, the private student loan market grew substantially in the mid-2000s and contracted during the recession in 2008. Researchers relying on NPSAS, which covered the 2003-2004 and 2007-2008 school years, could not effectively document the rise in private student loans during the intervening four years. More frequent data collection and publication would allow the public to detect emerging trends and potential consumer protection threats before they become unmanageable.

- **Borrower demographic information**—It is critical to have information on borrower demographics that could help the public and policymakers determine how various populations are impacted by student debt and identify potential violations of fair lending laws. Demographic information should include data on race, ethnicity, gender, age, dependency status, disability status, marital status, and family size of both federal and private student loan borrowers. For dependent students, parental demographic data should be released as well, including the highest level of education completed.

- **Borrower and co-signer financial characteristics**—While the Department of Education does not engage in traditional underwriting for most federal student loans, having a better understanding of students' financial resources can shed light on whether students are taking advantage of the best available options for paying for college, help policymakers to better target resources, and help researchers understand factors that induce students to borrow and affect repayment. In contrast, private student lenders do underwrite their loans and often require a co-signer for borrowers with limited credit history.[15] Including data on key underwriting factors will allow researchers to control for these variables when assessing potential violations of fair lending laws. Data on borrower financial characteristics should be as least as detailed as the set of variables in NPSAS documenting financial need, loan amounts, grant amounts, other aid amounts, employment, expected family contribution, actual family contribution, and income (for

[15] "2015 Mid-Year Update on Student Loan Complaints." Consumer Financial Protection Bureau. June 18, 2015.

both students and parents of dependent students). In addition, the data on private student loans should include credit scores, other debt obligations, and assets. When applicable, these data points should also be included for co-signers. To protect privacy, the data may need to be reported in ranges as suggested for new credit score and borrower age reporting in the revised HMDA data requirements.

- **School characteristics—**As research from Woodstock Institute[16] and others has found, school characteristics can be an important predictor of student debt loads and likelihood of repayment. Public data on both federal and private student loans should be as least as detailed as the NPSAS variables on students' educational experiences and school characteristics, including institution type (non-profit, public, or for-profit), highest degree offered, program of study, academic achievement in higher education and high school, and institution size. In addition, the data should indicate whether a student was enrolled in a two- or four-year program and whether the student completed the program.

- **Loan characteristics—**The data should allow users to understand the details of borrowers' student loan packages, including subsidized and unsubsidized Stafford loans, Perkins loans, Parent PLUS loans, state or institutional loans, and private student loans. For federal loans, data should include the interest rate and any other loan fees. For private student loan applications, the data should include whether the interest rate is variable or fixed, the highest possible interest rate, prepayment penalties, the action taken on the application, the reason for denial, whether the lender had a marketing agreement with the school, loan term, length of teaser or introductory rates, any non-amortizing features, auto-default clauses that call the entire loan balance due upon the death or bankruptcy of a borrower or co-signer, and repayment incentives (such as interest rate or principal reduction for activities that increase the likelihood of repayment, such as graduation).

- **Loan performance data**—Currently, data on the performance of student loans are very limited, particularly for private student loans. There is no loan-level public dataset on student loan performance for either federal or private student loans. The federal government reports some scorecards on student loan performance, including institution-level cohort default rates and the dollar amounts of outstanding student loans in different repayment statuses,[17] but without more complete data, researchers cannot develop a better understanding of characteristics that contribute to loan performance, barriers to affordable repayments, or the impact of defaults and delinquency on particular geographies or protected classes. Data on the performance of private student loans are typically limited to summaries in public disclosures of publicly-traded companies. The National Mortgage Database, currently under development at the Federal Housing Finance Agency, could provide a model for developing a publicly accessible database on loan performance. Data should cover both public and private student loans and include a unique identifier to track loans over time, current loan balances, amount paid in interest and principal to date, current and original borrower and co-signer credit scores, repayment status (including current, deferment type, forbearance type, severity of default, and delinquency), applications for affordable repayment plans or other loan modifications (including income-driven repayment plans, releasing co-signers from loans, interest rate reduction, extensions of loan terms, or principal reductions), action taken on applications for affordable repayment plans and loan modifications (including reasons for denial), whether borrowers in income-driven repayment plans re-certified their incomes, refinance amount, current interest rate, current monthly payment,

[16] Buitrago *op. cit.*
[17] "Federal Student Aid Data Center." Department of Education Office of Federal Student Aid. www.studentaid.ed.gov/sa/data-center

borrower income, sale in secondary market, changes in servicing rights, current servicer, and other debt obligations.

Thank you for the opportunity to comment on this request for information. We appreciate your continued dedication to protecting student loan borrowers.

Sincerely,

Katie Buitrago
Woodstock Institute