MIDFIRST BANK

June 12, 2019

Chief Counsel's Office
Attention: Comment Processing, 1557-NEW
Office of the Comptroller of the Currency
400 7th Street, SW
Suite 3E-218
Washington, DC 20219

RE: Agency Information Collection – Regulation C Home Mortgage Disclosure
OCC 1557-NEW

MidFirst Bank ("MidFirst") appreciates the opportunity to respond to the Office of the Comptroller of the Currency ("OCC") Notice and Request for Comment regarding Regulation C - Home Mortgage Disclosure. Based on asset size, MidFirst Bank is subject to Consumer Financial Protection Bureau ("CFPB") oversight of Home Mortgage Disclosure Act ("HMDA") reporting. MidFirst is also subject to OCC Community Reinvestment Act ("CRA") and Fair Housing Act oversight.

The analysis of HMDA data is a significant element of OCC CRA and fair lending examinations. A critical portion of the data used by these regulators is the loans and loan data reported on HMDA Loan Application Registers (LARs). MidFirst is concerned with the affect that loan threshold exemptions ("Exemption") in which certain HMDA loans are not reported at all or partial HMDA loan data exceptions ("Exception") in which certain data fields are not reported can affect the market data. The conclusions of institutions that report all HMDA loans and all data for each HMDA loan reported can be negatively affected if a significant - yet unknown -, volume of data have been exempted.

MidFirst recommends eliminating or limiting the loan count thresholds by which the Exemption is triggered. Alternatively, MidFirst recommends that more formalized written CRA and fair lending examination procedures be adopted by the OCC to illustrate how a fully reporting institution addresses situations in which its data are compared to aggregate HMDA market data that may not be fully representative of all loans originated in the market. This approach is consistent with the OCC initiative to modernize CRA which has also been supported by the FDIC and Federal Reserve. The OCC's stated objectives of reduced regulatory burden and increased consistency, clarity, and transparency would benefit from these recommendations.

Preliminary analysis of 2018 aggregate nationwide HMDA data suggests that equity lines of credit and closed end credit may have materially different demographic characteristics. A straight comparison of an individual institution's data to the aggregate therefore may lead to inaccurate CRA or fair lending conclusions caused by the Exception and the Exemption. As the data is not reported, a reporting institution has no basis to document the impact that missing data may have on its examinations. This result is inconsistent with the OCC's CRA modernization objectives.

MidFirst encourages the OCC to consider and address this issue in relation to HMDA reporting, CRA, and fair lending data analysis. Attached is MidFirst's Comment Letter in response to the CFPB HMDA Reporting Threshold Notice of Proposed Rulemaking that provides additional perspective on this matter.

Respectfully,

Charles R. Lee
Vice President and
Director of Regulatory Affairs

Enclosure

MIDFIRST BANK

June 12, 2019

The Honorable Kathleen Kraninger
Director
Consumer Financial Protection Bureau
Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

Re: Proposed Rule Home Mortgage Disclosure (Regulation C)
Docket No. CFPB-2019-0021; RIN 3170-AA76

Dear Director Kraninger:

MidFirst Bank ("MidFirst") appreciates the opportunity to comment on the Consumer Financial Protection Bureau ("CFPB") Proposed Rule with Request for Comment regarding Home Mortgage Disclosure and alternatives to increase the reporting threshold of closed and open end lines of credit and extend the current temporary threshold for open end lines of credit an additional two years to 2022.

The purpose of the Home Mortgage Disclosure Act ("HMDA") regulation is to assist in determining compliance with housing needs, in distributing public sector investments, and in identifying possible discriminatory lending patterns. Additionally, HMDA data is used by the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC"), the Federal Reserve (hereafter collectively "prudential regulators"), and state banking agencies during Community Reinvestment Act ("CRA") exams, and by the CFPB, the prudential regulators, and state banking agencies for fair lending exams.

MidFirst respectfully requests the CFPB's consideration of the following to align with and support the above:

1. Whether the regulated community will be equally impacted by the lack of data created by the increased thresholds.

2. Whether the increased thresholds create unintended consequences when the data is used in fair lending and CRA exams.

3. Whether 2017 data relied on in the Notice is reasonable in light of the 2018 data which is now available.

Consideration of these issues has led MidFirst to conclude that CFPB's proposal to increase the reporting thresholds determined in the 2015 Final Rule[1] and extend the temporary reporting threshold for open end credit determined in the 2017 Final Rule[2] is not in the best interest of the regulated community, despite any relief from regulatory burden.

HMDA data is used by a wide variety of regulatory institutions for a wide variety of purposes. The current temporary reporting threshold for open end loans makes it difficult to impossible to understand the market as a whole. Extending the temporary threshold and increasing the permanent thresholds will create data that cannot be used accurately or fairly to determine compliance with housing needs, distribution of public sector investments, and identify possible discriminatory lending patterns as well as impact financial institutions regulatory examinations.

1. **Lack of market data created by increased thresholds will not impact the regulated community equally.**

Midsized and regional lenders will be disproportionately harmed by the threshold increase. To limit HMDA reporting, some lenders may cease originating HMDA reportable loans once loan volumes approach the lending thresholds. This will impact the selection of peers available for fair lending analysis as fewer peers will be available and those that are selected may not be direct competitors. Institutions with volumes just over the thresholds likely will be most directly impacted by this situation.

How those actions will affect consumers and markets are unknown. Additionally, lack of data arising from threshold exemptions increases compliance costs for midsized institutions, including those subject to large bank CRA procedures. Midsized and larger institutions will incur additional expenses in assessing the impact of the missing data and how that data may have affected the institution's results.

2. **Increased thresholds will detrimentally affect CRA and fair lending exams.**

Based on the CFPB estimates, under the current temporary open end reporting threshold only 77 percent of the open end market is being reported, while 99 percent of the closed end market is being reported. Extending the temporary threshold of 500 open end loans for another two years results in four years of data where a significant percentage of the market may be excluded from reporting. Without relatively complete, reliable market data, it is difficult for a lender to measure itself against the market and determine its peers, judge its lending activities, make adjustments, and avoid unfavorable CRA or fair lending conclusions.

[1] Final Rule, Home Mortgage Disclosure (Regulation C), Consumer Financial Protection Bureau, 10/28/2015.
[2] Final Rule, Home Mortgage Disclosure (Regulation C), Consumer Financial Protection Bureau, 09/13/2017.

a. Fair lending

Financial institutions are compared to a peer group in a fair lending analysis. Certain geographical areas will have few direct peers for data analysis if a higher reporting threshold is used. As discussed above, midsized and regional institutions may be most exposed to this risk. Excluding too much of a market from the data set could lead to misleading analysis and ultimately, inaccurate examination conclusions.

b. CRA

OCC CRA Large Bank examination procedures[3] derive CRA ratings based in part on an individual institution's lending volumes and low and moderate-income (LMI) borrower and tract distributions in relation to the aggregate market[4] data for a CRA assessment area[5]. A reporting exception of up to 500 loans as outlined in the NPR creates the potential for a large volume of lines of credit to be unreported, particularly if multiple institutions operate within the reporting exception. Open end and closed end originations reflect different LMI demographic characteristics, yet regulators often perform CRA analysis using the combination of both open and closed end originations. As more, or fewer, line of credit originations are included in the total for the aggregate market, an individual lender's results in relation to the aggregate will fluctuate.

The extent of this impact on CRA analysis is indeterminable, yet it is possible that different CRA conclusions could be reached if a greater number of equity lines are reported. While the concept of CRA performance context allows for an institution to explain potential disparities, unreported lines of credit provide no performance context or value for the institution. As a result, not only could the aggregate data be skewed from unreported data, the unreported data also cannot be used to explain the local market or an individual institution's lending patterns. These concerns also illustrate an inconsistency with the objectives of the OCC's CRA modernization efforts which is intended to promote consistency, clarity, and transparency of CRA analysis and examination results for regulators, consumers, and the general public.

As a HMDA reporting entity, MidFirst appreciates the burden and expense associated in complying with the 2018 HMDA rule change. However, with the exception of the smallest reporting institutions, complying with the rule change may be more manageable than initial appearance as 645 of the total 951 lenders reporting equity line originations in 2018 had fewer

[3] As of January 1, 2019, financial institutions with assets exceeding $1.284 billion as of December 31 of both the prior two calendar years are subject to Large Institution CRA examination procedures that require more detailed HMDA originated and purchased loan volume analysis and Low- and Moderate-Income (LMI) tract and borrower income comparisons.

[4] The aggregate market includes all HMDA originated and purchased loans for the local assessment area or geographic market by all HMDA reporting entities regardless of asset size, reported HMDA volume, or chartering agency.

[5] CRA requires institutions to designate assessment areas which are geographies consisting of contiguous political subdivisions in which the institutions branches and deposit taking ATMs are located.

than 500 originations. The value of the additional data obtained by an exception threshold of 100, especially in local lending markets, exceeds the burden that may occur to smaller lenders. The smaller loan reporting threshold and an immediate move to these permanent thresholds affords more certainty, clarity, and transparency in analytics, and therefore greater benefit to the consumer and general public.

3. **Review and understand the 2018 reported data prior to creating new thresholds.**

Because the estimated data relied on in the Notice were based on pre-2018 HMDA data, it may not accurately represent what is actually occurring in the market. In order to gain an accurate understanding of the data and its affects, MidFirst proposes that all available data be reviewed prior to changing the reporting thresholds.

Knowledge, understanding, and analysis of the 2018 data are necessary prior to making additional changes to threshold exceptions. This data are used by a regulators for a variety of purposes. How the proposed changes in threshold exceptions affect those regulators and the currently reporting financial institutions should be considered.

In conclusion, MidFirst strongly encourages the CFPB and other federal banking agencies to specifically consider the various ways in which HMDA data is used for supervision purposes and the burdens associated with gaps in available data that likely would be caused by the proposed threshold increase. Should you require further information, please contact the undersigned.

Respectfully,

MidFirst Bank

Charles R. Lee
Vice President and
Director of Regulatory Affairs