



Highlights of [GAO-08-1023T](#), a testimony before the Subcommittee on Oversight and Investigations, Committee on Financial Services, House of Representatives

## Why GAO Did This Study

The Federal Reserve Board's (FRB) Regulation B, which implements the Equal Credit Opportunity Act of 1974 (ECOA), generally prohibits lenders from collecting certain data from loan applicants, such as their race or gender, for nonmortgage loans (e.g., small business loans). FRB has stated that this provision of Regulation B minimizes the chances that lenders would use such data in an unlawful and discriminatory manner. However, others argue that the prohibition limits the capacity of researchers and regulators to identify possible discrimination in nonmortgage lending.

This testimony is based on the GAO report, *Fair Lending: Race and Gender Data Are Limited for Nonmortgage Lending* (GAO-08-698, June 27, 2008). Specifically, GAO analyzes (1) studies on possible discrimination in nonmortgage lending and the data used in them, (2) FRB's 2003 decision to retain the prohibition of voluntary data collection, and (3) the benefits and costs of a data collection and reporting requirement. For this work, GAO conducted a literature review; reviewed FRB documents; analyzed issues involving the Home Mortgage Disclosure Act (HMDA), which requires lenders to collect and publicly report data on personal characteristics for mortgage loan applicants; and interviewed FRB and others.

FRB did not take a position on this report's analysis. In addition to restating its rationale for retaining the prohibition of voluntary data collection, FRB summarized GAO's findings, including the potential benefits and costs of additional data for fair lending enforcement.

To view the full product, including the scope and methodology, click on [GAO-08-1023T](#). For more information, contact Orice M. Williams at (202) 512-8678 or [williamso@gao.gov](mailto:williamso@gao.gov).

## FAIR LENDING

### Race and Gender Data Are Limited for Nonmortgage Lending

#### What GAO Found

GAO's June 2008 report found that most research suggests that discrimination may play a role in certain types of nonmortgage lending, but data limitations complicate efforts by researchers and regulators to better understand this issue. For example, available studies indicate that African-American owned small businesses are denied loans more often or pay higher interest rates than white-owned businesses with similar risk characteristics. While the primary data source for these studies, a periodic FRB small business survey, provides important insights into possible discrimination, it also has limits compared to HMDA data. For example, the FRB survey data are collected from borrowers rather than lenders, which limit their usefulness as a means to assess lending practices. In addition, federal bank regulators that enforce ECOA said that HMDA data facilitates the identification of lenders that may be engaging in discriminatory mortgage lending. In the absence of such data for nonmortgage loans, regulators may rely on time-consuming and less reliable approaches to identify possible discrimination, such as assuming a loan applicant is Hispanic based on his or her last name.

While testimony from researchers and other information GAO collected did not fully agree with all aspects of FRB's 2003 rationale for retaining the prohibition of voluntary data collection, there was general agreement that such voluntary data would have limited benefits. FRB did not adopt a proposal that would have allowed lenders to collect data, without any standards, because it said the proposal would have (1) created an opportunity for lenders to use the data for discriminatory purposes and (2) such data would not be useful since lenders may use different collection approaches. While some researchers and others agreed with FRB's first rationale, others said that data collection alone would not necessarily create the risk for discrimination because, in some cases (e.g., small business lending), lenders may already be aware of applicants' personal characteristics as such lending is often done on a face-to-face basis. Even so, a range of researchers, regulatory staff, and others agreed that voluntarily collected data would not likely materially benefit efforts to better understand possible discrimination because the data would be collected on an inconsistent basis or few lenders would participate out of concern for additional regulatory scrutiny of their nonmortgage lending practices and the potential for litigation.

Requiring lenders to collect and publicly report data on personal characteristics for nonmortgage loan applicants could help address current data limitations that complicate efforts to better assess possible discrimination. However, such a requirement would impose additional costs on lenders that could be partially passed on to borrowers. These potential costs include those associated with information system integration, software development, data storage and verification, and employee training. Limiting a requirement to certain types of loans could help mitigate such costs but may also involve complexities that would need to be carefully considered. For example, to the extent that small business lending is more complicated than other types of lending, lenders may need to collect and report additional information on a range of underwriting standards in addition to data on personal characteristics so that informed judgments can be made about their lending practices.