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March 30, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1275 First Street
Washington, DC 20552

Re: Amendments Relating to Small Creditors and Rural or Underserved Areas under the Truth in Lending Act (Regulation Z)

Transmitted electronically through www.regulations.gov.

Dear Director Cordray:

I am writing on behalf of the over 1 million members of the National Association of REALTORS® (NAR) to comment on the Consumer Financial Protection Bureau's (CFPB) February 11, 2015, proposed rules to amend the January 2013 final mortgage rules under the Truth in Lending Act (TILA) and subsequent revisions.[1] NAR is America's largest trade association, including our eight affiliated Institutes, Societies and Councils, five of which focus on commercial transactions. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

NAR appreciates the CFPB's proactive approach in proposing rule amendments that recognize the need for modifications to the mortgage rules, including reducing regulatory burden on rural and community banks, which will ensure access to mortgage credit for certain qualified borrowers. NAR has long supported strong underwriting standards that require all mortgage originators to verify the borrower's ability to repay the loan based on all its terms, including taxes and insurance.[2]

OVERVIEW

In January 2013, the CFPB issued several final rules concerning mortgage markets in the United States (2013 Title XIV Final Rules), pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). In addition to revising and clarifying the rules over the last two year, the CFPB also indicated that it would revisit the definitions of small creditor and rural or underserved areas. These definitions provide the boundaries for exemptions for a number of the mortgage rules. The CFPB is now proposing additional amendments with regard to the definition of small creditor and rural or underserved areas.

The proposed regulatory definition amendments include:

1. Small Creditor Definitions

i. Raising the loan origination limit for eligibility for small-creditor status from 500 first lien mortgage originations to 2,000. The total would exclude loans held in portfolio by the creditor and its affiliates from that limit. The CFPB also proposes to provide a grace period that would allow a creditor that exceeds the origination limit, in certain

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[1] These final rules include the January 2013 ATR Final Rule, the January 2013 Escrows Final Rule, the 2013 HOEPA Final Rule, and the January 2013 Interagency Appraisals Final Rule. Most of the mortgage rules released in January 2013 became effective on January 10, 2014.

[2] The limited exceptions to this general principle would include prime borrowers with sufficient verifiable assets to handle a balloon mortgage or a significant jump in mortgage payment.

circumstances, to operate under the small creditor exemption with applications received prior to April 1 of the current calendar year.

ii. Including in the calculation of the asset limit for small-creditor status (i.e., less than $2 billion [adjusted annually] in assets as of the end of the preceding calendar year) the assets of the creditor's affiliates that originate mortgage loans. The Bureau also proposes to add a grace period to the annual asset limit, similar to the grace period added to the origination limit.

2. Rural and Underserved Definitions

i. Adjusting the time period used in determining whether a creditor is operating predominantly in rural or underserved areas (i.e., whether the creditor extended more than 50 percent of its total first-lien covered transactions secured by properties located in rural or underserved areas) to the preceding calendar year. The CFPB proposes a similar grace period as with the origination and asset limits for small-creditor status.

ii. Amending the current exemption provided to small creditors that operate predominantly in rural or underserved areas from the requirement for the establishment of escrow accounts for higher-priced mortgage loans, to ensure creditors that would qualify under the proposed definition wouldn't inadvertently be excluded because of escrow accounts established under current regulations.

iii. Expanding the definition of rural to include either: (1) a county that meets the current definition of rural county, or (2) a census block that is not in an urban area, as defined by the U.S. Census Bureau (Census Bureau).

iv. Adding two new safe harbor provisions related to the rural or underserved definition for certain automated tools that allow creditors to determine whether properties are located in rural or underserved areas: (1) on the CFPB's web site, or (2) provided on the Census Bureau's Web site according to the Census Bureau's definition. The CFPB also proposes to maintain their current safe harbor for lists of rural and underserved counties with technical changes and add commentary clarifying the circumstances under which U.S. territories will be included on the lists.

v. Extending the temporary transition period for certain small creditors to make balloon-payment qualified mortgages and balloon-payment high-cost mortgages, regardless of whether they operate predominantly in rural or underserved areas to certain covered transactions for which the application was received before April 1, 2016.

PROPOSED RULE BALANCES REGULATORY RELIEF WITH COMMON SENSE UNDERWRITING

REALTORS® appreciate the CFPB's recognition of the regulatory compliance burden borne by community banks, particularly those in rural and underserved communities. Ensuring community banks can continue to maintain good relationships and provide mortgage credit to their customers without being overloaded with regulations intended for more complex financial institutions is an important goal.

NAR supports strong underwriting standards and believes that all mortgage originators should act in "good faith and with fair dealings" in a mortgage transaction and treat all parties honestly. This idea is at the core of community banks which base their reputations on a relationship-lending model. These standards had been the basis for offering mortgage credit for decades until the mid-2000's which saw a proliferation of lenders offering mortgage products that were unstainable for borrowers.

In May 2005, NAR adopted principles warning that consumers were being taken advantage of by intemperate, and often predatory, lending. We knew then that, in a credit-driven economy, the legislative and regulatory response to lending abuses could go too far and inadvertently limit the availability of reasonable credit for borrowers. Unfortunately, this restriction of credit was exactly what the market experienced. As a result of the lending industry and regulators over-correcting in response to the abuses in the middle of the previous decade, NAR called on the credit and lending communities and federal regulators to reassess the entire credit structure and look for ways to increase the availability of credit to qualified borrowers who are good credit risks.[3]

Noting the importance of both of these principles, NAR supported the balance the January 2013 mortgage rules achieved including strong consumer protections, the promotion of mortgage liquidity, and important ability-to-repay standards. One compliance

[3] http://www.realtor.org/topics/credit-policy/background

option is for the creditor to make a reasonable and good faith determination that the borrower has a reasonable ability to repay the loan and related obligations, based on verified and documented information based on all its terms, including taxes and insurance.

The CFPB's proposed amendments recognize that community banks have a long history of this common sense approach to underwriting and offering mortgage credit to borrowers and that the relationship-lending model is one that should be maintained. Of course, any exception to the general rule must be limited and not become the general rule – moderating regulatory burdens for small lenders needs to be balanced with maintaining principles of strong underwriting based on a borrower's ability-to-repay.

COMMUNITIES NEED OPPORTUNITY TO APPLY FOR RURAL DESIGNATION

Our rural citizens face unique challenges finding access to credit. NAR was an early supporter of proposed mortgage rules that provided a safe harbor for qualified creditors to provide balloon mortgages in rural and underserved areas and appreciates the CFPB acknowledging the need to improve recognition of rural communities.

NAR believes it is vital to ensure that our rural citizens continue to have access to financing appropriate to their needs. In addition to the proposed amendments, NAR suggests that the CFPB establish an application process under which a person who lives or does business in a state may apply to have an area designated as a rural area if it has not already been designated as such by the CFPB or Census Bureau. This process would help to assure that communities excluded from the rural definition amendments would have an avenue to apply to the CFPB to extend the definition of rural in those inevitable cases where a county may have been inappropriately excluded. This guarantees that citizens in rural communities aren't being left without mortgage options.

CONCLUSION

NAR's recommendations are guided by our objective of achieving a reasonable balance among competing interests. We note that balance is critical if the impact of regulations on small community banks, particularly those in rural and underserved areas, is denying or delaying credit to millions of creditworthy borrowers. This is especially true for first-time and minority homebuyers who, especially in today's mortgage market, face the most daunting challenges to achieving the American dream of sustainable homeownership.

NAR appreciates the recognition of the impact that the regulatory environment has had on the ability of community banks to provide mortgage credit and its efforts to ease that burden. As stated previously, any exception to the general rule must be limited and not become the general rule – moderating regulatory burdens for small lenders needs to be balanced with maintaining principles of strong underwriting.

Thank you for your time and consideration of this timely issue. NAR looks forward to working with you. If I may be of any assistance to you, please do not hesitate to contact me or Charlie Dawson, NAR's Senior Policy Representative for Financial Services, at 202.383.7522 or cdawson@realtors.org.

Sincerely,

Chris Polychron
2015 President, National Association of REALTORS®