CFPB Unveils Ambitious Strategic Plan
By Ken Trepeta, Director, Real Estate Services

The Consumer Financial Protection Bureau (the Bureau) unveiled its strategic plan for 2013-2018 this fall. CFPB has an ambitious agenda including finalizing and implementing numerous regulations affecting the housing industries. NAR supports the Bureau's efforts to educate and protect consumers, particularly with regard to mortgage credit transactions. NAR pioneered education efforts regarding subprime and non-conforming loans beginning in 2004-05 with the adoption of the Association's subprime credit policies. Chief amongst NAR's positions was a belief that consumers should have the ability to repay the loans. NAR produced numerous brochures and educational materials for members to distribute to consumers during that same period. NAR also partnered with the Center for Responsible Lending, the Department of Housing and Urban Development and other organizations on a number of these educational efforts.

A lot has changed since the housing and mortgage crisis. NAR now believes and has argued that the credit pendulum has swung too far in the other direction and many eligible and qualified borrowers are being denied loans or being forced to pay more than they otherwise would because of overly tight credit policies. Many forthcoming regulations, including the Ability to Repay-Qualified Mortgage (QM), Real Estate Settlement Procedures Act (RESPA) and Truth in Lending Act (TILA) harmonization, Loan Officer Compensation, and Home Ownership Equity Protection Act (HOEPA) rules, among others, have the potential to limit consumer credit access, increase costs to consumers or both. NAR believes the Bureau must be very careful to balance the critical issue of access to credit with protecting consumers from hypothetical harm. Given already tight credit standards, the outcome is becoming more often not protection from harm but prohibiting access to opportunity.

While we still await a final rule on QM as of this writing, it is hard to conceive that it won't tighten credit at least somewhat and may reduce choices in service providers if the definition of fees and points is not fixed to level the playing field for affiliates. Likewise, the loan officer compensation rule could have the same effect as well. The proposed RESPA/TILA rule will likely be very costly to implement if not substantially scaled back.

It is important that the Bureau be very careful in the sequencing and implementation of the numerous regulations it will finalize in the coming years. Even if rules are not onerous in their requirements, poorly timed changes can still be costly and onerous to businesses small and large. The Bureau should make its rule simple to implement and simple to follow. It does not help consumers if their borrowing costs jump dramatically because lenders and settlement service providers must spend huge sums to implement complex and burdensome regulations. Similarly, it will not help consumers if they are denied access to credit because lenders do not feel secure to lend because it is unclear what the rules are, whether they apply in any given scenario, or whether they might be subject to change at a later date.

NAR also recommended that the Bureau make its final rules simple, clear, and easy to follow. Thousands of pages of proposed regulations have left many feeling shell-shocked and there is a real fear that the final regulations will not be much clearer. If they are not, it is hard to see how consumers would benefit.

Finally, NAR asked the Bureau to take into account that rules not only protect consumers, but can cost them as well, in terms of both dollars and lost opportunities. NAR hopes the Bureau will seek to maximize opportunities and minimize costs as it carries forward its important mission.