



Consumer Financial  
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

August 17, 2016

The Honorable Joe Donnelly  
United States Senate  
720 Hart Senate Office Building  
Washington, DC 20510

The Honorable Ben Sasse  
United States Senate  
386A Russell Senate Office Building  
Washington, DC 20510

Dear Senators Donnelly and Sasse:

Thank you for your letter concerning the importance of well-tailored and effective regulations. The Consumer Financial Protection Bureau is committed to this objective in accordance with the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. As the Bureau continues its work, consumer financial markets are showing increasing signs of health. Equally significant is the strength being exhibited by community banks and credit unions.

Under Section 1021 of the Dodd-Frank Act, the purpose of the Bureau is to implement and, where applicable, enforce Federal consumer financial laws consistently to ensure that all consumers have access to markets for consumer financial products and services, and that such markets are fair, transparent, and competitive. Section 1021 further provides that one of the Bureau's objectives, in exercise of its authorities, is to enforce Federal consumer financial law "consistently, without regard to the status of a person as a depository institution, in order to promote fair competition."<sup>1</sup>

Section 1022 of the Dodd-Frank Act authorizes the Bureau to engage in rulemaking and issue orders and guidance to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof. In doing so, Section 1022 requires that the Bureau consider the potential benefits and costs to consumers and covered persons, including the potential reduction of access to consumer financial products and services to consumers. Section 1022 also requires the Bureau to consider the impact of a proposed rule on insured depository institutions and credit unions with total assets of \$10 billion or less as well as the impact on consumers in rural areas. Moreover, Section 1022 gives the Bureau the authority to create exemptions from the Consumer Financial Protection Act of 2010 or rules issued under that Act for any class of covered persons, service providers, or consumer financial products or services if the Bureau determines an exemption is necessary or appropriate to carry out the purposes and objectives of the Consumer Financial Protection Act after taking into consideration a set of factors specified in the statute.

As part of the Bureau's commitment to achieving tailored and effective regulations, the Bureau has taken the following actions for different models and classes of institutions:

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<sup>1</sup> Pub. L. 111-203, Title X, § 1021(b)(4) (July 21, 2010); 12 U.S.C. § 5511(b)(4).

- **Expanded safe harbor for small creditors.** A small creditor has a broader safe harbor for its Qualified Mortgage (QM) loans than non-small creditors. The Bureau's rules provide a safe harbor for QMs with annual percentage rate (APR) spreads over Average Prime Offer Rate (APOR) up to 350 basis points, whereas non-small creditors have a safe harbor for spreads up to 150 basis points. The Bureau's rules also allow a small creditor to make QMs with debt-to-income ratios that exceed the otherwise applicable 43 percent cap. (Small creditors must hold these loans in portfolio for three years.)
- **Exempted small creditors in rural and underserved areas.** Initially, small creditors that operate predominantly in rural or underserved areas were exempt from requirements to establish escrow accounts for higher priced mortgage loans and could offer QMs and Home Ownership and Equity Protection Act (HOEPA) loans ("high cost" mortgages as defined in the HOEPA) that have balloon payment features. QMs and HOEPA loans generally cannot have balloon payments. In March 2016, the Bureau issued an interim final rule which extended certain exemptions for small creditors in rural and underserved areas.
- **Implemented a two-year pause for small creditors.** The Bureau established a two-year transition period (until January 10, 2016) allowing small creditors to make balloon-payment QMs and balloon-payment HOEPA loans regardless of whether they operate predominantly in rural or underserved areas, while the Bureau revisited and reconsidered the definition of "rural" for this purpose.
- **Expanded exemptions for rural and underserved areas.** In connection with other changes to amend the definitions of "small creditor" and "rural area," the Bureau published a final rule in October 2015 that extended this two-year transition period from January 2016 until April 2016. The Bureau's final rule also provided a significant expansion of "rural," as well as an expansion of which entities can qualify as "small creditors." The Bureau's final rule took effect on January 1, 2016, before the two-year transition period expired. In March 2016, the Bureau issued an interim final rule that implements the Helping Expand Lending Practices in Rural Communities Act, and makes these provisions available to small creditors that extend at least one covered transaction secured by property located in a rural or underserved area in the previous calendar year. About 6,000 additional small creditors will be eligible as a result of this change.
- **Relaxed requirements for appraisals.** Small creditors have relaxed rules regarding conflict of interest in ordering appraisals and other valuations.
- **Exempted small servicers from providing periodic statements.** Small servicers are exempt from the Truth in Lending Act requirement to provide periodic statements.
- **Exempted small servicers from loss mitigation requirements.** Small servicers are exempt from all of the Real Estate Settlement Procedures Act provisions on policies and procedures; early intervention; continuity of contact; and loss mitigation, except that a small servicer may not file for foreclosure unless the borrower is more than 120 days



delinquent on the mortgage. Small servicers may also not file for foreclosure (or move for a foreclosure judgment or order of sale, or conduct a foreclosure sale) if a borrower is performing under the terms of a loss mitigation agreement.

- **Exempted lower-volume depository institutions from Home Mortgage Disclosure Act reporting.** In October of 2015, the Bureau adopted a final rule revising Regulation C, which implements HMDA. HMDA and Regulation C, among other things, require covered mortgage lenders to report data concerning their mortgage lending activity. Changes to coverage in the final rule will reduce the number of banks, savings associations, and credit unions that are required to report HMDA data. The revisions will relieve about 22 percent of currently reporting depository institutions from the burden of reporting HMDA data.
- **Provided regulatory certainty for small entities under the Electronic Fund Transfer Act.** In the Bureau's rules implementing the Dodd-Frank Act's amendments to the Electronic Fund Transfer Act, the Bureau determined that the remittance requirements do not apply to transfers sent by entities that provide 100 or fewer remittances each year.

Furthermore, the Bureau is one of only three federal agencies that are subject to the Small Business Regulatory Enforcement Fairness Act. SBREFA requires the Bureau to convene Small Business Review Panels in rulemakings unless the rule will not have a significant economic impact on a substantial number of small entities. The Bureau has consistently sought the input of small businesses as part of the SBREFA panel process through participation by small business entity representatives. The Bureau gives serious consideration to the feedback it receives from small businesses as it prepares a proposed rule. Small businesses are a critical growth engine for our larger economy and an essential source of financial services for many consumers. The Bureau believes strongly in the value of getting input from and about small providers to ensure regulations do not impose more burdens on them than necessary to meet statutory objectives. In order to create better public policy, the Bureau strives to integrate the direct input and advice from small businesses into the Bureau's work.

Small business panels are just one part of the Bureau's broader initiatives to address the unique issues facing small financial institutions. The Bureau has created an Office of Financial Institutions and Business Liaison, within its Division of External Affairs, to ensure that the Bureau considers the perspectives of financial institutions, including small businesses, banks, and credit unions, during the policy-making process, to communicate relevant policy initiatives, and to identify potential areas for regulatory simplification.

The Bureau also has a number of resources on our website, [consumerfinance.gov](http://consumerfinance.gov), to help financial institutions understand our rules, including our mortgage rules,<sup>2</sup> the Know Before You Owe TILA-RESPA Integrated Disclosure rule,<sup>3</sup> the remittance transfer rule,<sup>4</sup> and most recently our rule on the

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<sup>2</sup> See <http://www.consumerfinance.gov/regulatory-implementation/title-xiv/>.

<sup>3</sup> See <http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>.

<sup>4</sup> See <http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/remittance-transfer-rule/>.

Home Mortgage Disclosure Act,<sup>5</sup> and their implications, as well as links to various other helpful resources because timely and efficient regulatory implementation of new rules is an important factor in delivering consumer protections to the market.<sup>6</sup>

Whether writing regulations, redesigning forms to be easier to understand, or following new trends in consumer finance, the Bureau looks to stakeholders for advice and insight. In addition to our day-to-day work of gathering input, the Bureau also convenes independent advisory groups for formal input on everything from consumer engagement and research, to policy development and rulemaking.<sup>7</sup> Both the Community Bank Advisory Council and the Credit Union Advisory Council advise us on regulating consumer financial products or services and specifically are tasked to share the unique perspectives of community banks and credit unions with the Bureau.

As I have expressed in the past, the Bureau recognizes that community banks and credit unions did not cause the financial crisis. For that reason, the Bureau is committed to ensuring that the regulations that we promulgate are well-tailored and effective. Should you have any additional questions about the Bureau's rulemaking, please do not hesitate to contact me, or have your staff contact Catherine Galicia in the Bureau's Office of Legislative Affairs. Mrs. Galicia can be reached at 202-435-9711.

Sincerely,



Richard Cordray  
Director

cc: The Honorable Joe Manchin, United States Senator  
The Honorable Jon Tester, United States Senator  
The Honorable Claire McCaskill, United States Senator  
The Honorable Mark Warner, United States Senator  
The Honorable Heidi Heitkamp, United States Senator  
The Honorable Amy Klobuchar, United States Senator  
The Honorable Martin Heinrich, United States Senator  
The Honorable Michael Bennet, United States Senator  
The Honorable Angus King, United States Senator  
The Honorable Tom Udall, United States Senator  
The Honorable Gary Peters, United States Senator  
The Honorable Tammy Baldwin, United States Senator  
The Honorable Debbie Stabenow, United States Senator  
The Honorable Tim Kaine, United States Senator

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<sup>5</sup> See <http://www.consumerfinance.gov/regulatory-implementation/hmda/>.

<sup>6</sup> See <http://www.consumerfinance.gov/regulatory-implementation/>.

<sup>7</sup> See <http://www.consumerfinance.gov/advisory-groups/>.



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The Honorable Kelly Ayotte, United States Senator  
The Honorable John Barrasso, United States Senator  
The Honorable Roy Blunt, United States Senator  
The Honorable John Boozman, United States Senator  
The Honorable Shelley Moore Capito, United States Senator  
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The Honorable Steve Daines, United States Senator  
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