



July 7, 2014

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

RE: Amendments to the 2013 Mortgage Rules under the Truth in Lending Act (Regulation Z), Docket No. CFPB-2014-0009

VIA ELECTRONIC MAIL: www.regulations.gov

Dear Ms. Jackson

The Michigan Credit Union League (MCUL), the statewide trade association representing 98% of the credit unions located in Michigan and their 4.5 million members, appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB's) most recent request for comment regarding amendments to the 2013 Mortgage Rules under the Truth in Lending Act (Regulation Z).

Small Servicer Definition and Exemption - Nonprofit Entities

The CFPB proposed earlier this year to provide additional exemptions to its 2013 mortgage rules and is seeking comment on an alternative definition of small servicer to include certain groups of non-profits that share a common name, trademark, or servicemark to further support a common charitable mission or purpose. The CFPB has identified during its Implementation Plan that certain non-profit entities may, for a fee, service loans for another non-profit entity that is the creditor on the loan. The CFPB has stated that these non-profits likely do not meet the definition of "affiliate" under the Bank Holding Company Act (BHCA) due to the limits imposed on non-profits with respect to ownership and control.

The BHCA defines an "affiliate" as; any company that controls, is controlled by, or is under common control with another company, as set forth in the BHCA of 1956 (12. U.S.C. 1841 et seq.) The Bank Holding Company Act describes "control" as; "Any company has control over a bank or over any company if-

The company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the bank or company;

The company controls in any manner the election of a majority of the directors or trustees of the bank or company; or
The Board determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.”

These non-profits likely do not qualify for the small servicer exemption because they service, for a fee, loans on behalf of an entity that is not an affiliate as defined under the BHCA (and because the servicer is neither the creditor for nor the assignee of those loans).

The MCUL is supportive of any exemptions provided for entities considered small servicers and those with an affiliate relationship. However, the MCUL would strongly encourage the CFPB to provide additional exemptions beyond the proposed exemption for certain “non-profits.” Several Michigan credit unions that would otherwise qualify for the exemption are currently disqualified due to their ownership stake in a Michigan Credit Union Service Organization (CUSO) that meets or exceeds the BHCA standard of holding 25% ownership or more.

Credit Unions are in business to serve their members, and to provide more affordable financial services alternatives. Because of the restrictive definition of “affiliate,” credit unions with 25% or more ownership in a CUSO realize a significantly heightened burden and related cost impact related to compliance with the full weight of recent amendments to Regulation X’s and Regulation Z’s servicing rules. The burden and cost associated with the rules are ultimately borne by the credit unions’ membership, either as increased rates and fees or discontinuance of products and services.

Limits on Points and Fees for Qualified Mortgages

The current ability-to-repay rule provides for four categories of qualified mortgages: a “general” qualified mortgage that is available to any creditor; a temporary qualified mortgage definition for loans eligible for sale to or guarantee by a government sponsored enterprise (GSE) or eligible for guarantee by or insurance under certain federal agency programs; and two qualified mortgages available to small creditors. The current rule provides that for all types of qualified mortgages, the up-front points and fees charged in connection with the mortgage must not exceed 3% of the total loan amount, with higher thresholds specified for various categories of loans below \$100,000.

The CFPB believes that a limited cure provision may promote consistent pricing within the qualified mortgage range by decreasing a perceived need for

higher pricing at the margins of points and fees limits, and has proposed a 120-day post consummation points and fees “cure” if the loan was originated in good faith as a qualified mortgage.

The MCUL strongly supports the proposed provision for a limited post-consummation points and fees cure mechanism for loans originated with a good-faith expectation of qualified mortgage status, and that inadvertently exceed the points and fees limitations to be considered a qualified mortgage.

According to a recently-conducted MCUL survey of Michigan credit unions, only 56% of responding credit unions are originating non-qualified mortgages. Those credit unions that decided to stay in the mortgage lending business but that are only offering qualified mortgages believe their portfolios are significantly impacted and declining. Members are seeking loans elsewhere or giving up on the idea of buying a home. Worse, some are seeking non-traditional financing. Credit unions have expressed that they are likely to avoid originating a loan that is close to the points and fees limit due to concerns that the loan will not achieve “qualified mortgage status” and thus would expose the credit union to potential litigation. A post-consummation cure mechanism will allow credit unions to feel more comfortable originating loans with points and fees close to the qualified mortgage limit, thus expanding the total credit available to consumers.

While supportive of a post-consummation points and fees cure, the MCUL does not feel that the proposed 120-day post-consummation period provides an adequate amount of time for credit unions to review all loans originated and engage in appropriate procedures to cure the overage. The MCUL urges the CFPB to expand the post-consummation period to 180 days.

The MCUL also believes that post-consummation reviews could be very costly to credit unions, and recommends a smaller sampling requirement for reviews, in order to reduce the cost and regulatory burden associated with them. Additionally, the “good faith” requirement is not needed, as the existing ability-to-repay rule sufficiently addresses this. Further, credit unions were originating loans in accord with similar standards long before the ability-to-repay rules were issued. The MCUL encourages the CFPB to remove this “good faith” requirement from the final rule.

Debt-to-Income Correction

The MCUL supports a debt-to-income cure or correction mechanism in situations where the creditor incorrectly calculates the 43% debt-to-income ratio when originating a general definition qualified mortgage loan. As stated in previous comments and supported by the above-mentioned survey, the MCUL

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feels that the 43% debt-to-income ratio is arbitrary and restricts credit unions in their ability to make mortgage loans to otherwise qualified borrowers. Any relief from this requirement is warranted.

Credit Extension Limit for the Small Creditor Definition

The MCUL has advocated throughout the CFPB's mortgage rule implementation for increases in the threshold for the definition of small creditor. The MCUL appreciates that the CFPB is considering an adjustment of the 500 total first-lien originations limit, and agrees that it should be raised. The MCUL requests that the 500 first-lien origination limit under the small creditor test be raised to at least 5000, to allow credit unions to better and further serve their members.

Conclusion

The MCUL appreciates the CFPB's ongoing efforts to reassess the impact of the recently promulgated mortgage rules, on financial institutions and on the market as a whole. Credit unions are a valuable and trusted source of consumer home financing that is conducted on fair and reasonable terms. Expanding on exemptions and providing relief from regulations in the form of reasonable cure mechanisms encourages credit unions as "good actors" in the market to ensure that needed and valued credit remains available to consumers.

Sincerely,

Sincerely,

A handwritten signature in black ink, appearing to be 'K.R.', written in a cursive style.

Ken Ross
Executive Vice President & Chief Operating Officer