



July 7, 2015

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

RE: Docket No. CFPB-2015-0029 and RIN 3170-AA48
2013 Integrated Mortgage Disclosures Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) and Amendments; Delay of Effective Date

VIA ELECTRONIC MAIL: www.regulations.gov

Dear Ms. Jackson:

The Michigan Credit Union League (MCUL) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) proposal delaying the effective date of the integrated disclosures rule under Regulation X and Regulation Z. MCUL is a state-wide trade association representing 98% of the credit unions located in Michigan.

The CFPB has proposed to delay the effective date from August 1, 2015 to October 3, 2015. This delay is in response to the recent announcement that due to an administrative error, the effective date could not legally take place until August 15, 2015. In the interest of accommodating consumers who will be transitioning to a new school year, the CFPB has announced that the proposed October 3, 2015 effective date would be better for consumers and their families. The MCUL supports the CFPB's decision to delay the effective date, however, we request that the CFPB provide further guidance and clarity to credit unions who have committed a great deal of resources to meet the initial effective date of August 1, 2015.

Michigan credit unions have spent most of 2015 working to meet the CFPB's August 1, 2015 deadline and now these efforts are on hold while we continue to wait for further guidance. The MCUL requests that the CFPB allow credit unions that are ready to meet the August 1, 2015 deadline to begin utilizing their forms on August 15, 2015. The MCUL further requests that the CFPB grant a safe harbor period from legal liability and enforcement until December 31, 2015. Allowing credit unions that are ready to implement their programs on August 15, 2015 to comply early will provide credit unions and members alike with a more seamless transition. Additionally, early compliance will afford credit unions the opportunity to realize their efforts earlier and ensure full compliance by October 3, 2015. CFPB should also allow for the addition of a safe harbor period to the end of the year. This period would allow all credit unions, whether they begin using the new forms August 15, 2015 or October 3, 2015, protection in the event there are unanticipated issues with meeting the CFPB's new integrated disclosure rule.

The MCUL would also like to raise a discrepancy issue related to the scope of the new rule with its applicability and requirements for small financial institutions and the guidance from the CFPB on how to comply with the new rules. The CFPB's September 2014 TILA-RESPA Small Entity Compliance Guide stated:

“Consistent with the current rules under TILA, the rule also does not apply to loans made by a person or entity that makes five or fewer mortgages in a calendar year and thus is not a creditor.”¹

This language as well as the final rule's supplemental information states, “the final rule also does not apply to loans made by a creditor who makes five or fewer mortgages in a year.” With this language, many small credit unions understand that they are exempt from the new requirements if they generate five or fewer mortgage loans in a year, regardless of how many non-mortgage loans they originate. However, the language within Regulation Z/TILA reads:

“A person regularly extends consumer credit only if it extended credit (other than credit subject to the requirements of 1026.32) more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year.”²

Additionally, the commentary further clarifies that, “Once one of the numerical tests is satisfied, the person is also a creditor for the other type of credit.”³

When the CFPB announced its proposal to delay the effective date of its Integrated Mortgage Disclosure rule under TILA and RESPA in June 2015, the Small Entity Compliance Guide was also updated. The language within the updated Small Entity Compliance Guide was revised and now reads:

“Consistent with the current rules under TILA, the rule also does not apply to loans made by a person or entity that is not a creditor.”⁴

The Small Entity Compliance Guide no longer states that the rule does not apply to a person or entity that makes five or fewer mortgages in a calendar year. The version log states that this change made to the Small Entity Compliance Guide was a “miscellaneous administrative change.” The MCUL, along with CUNA, views this as a substantive change to the guide. Additionally, this language does not address current language within the final rule's supplemental information which is relied upon by many credit unions that believe they qualify for the exemption under this proposed rule.

The MCUL, along with CUNA, urges the CFPB to confirm that creditors that make five or fewer mortgages per year, as outlined in the supplemental information of the rule and the September 2014 Small Entity Compliance Guide, are exempt from the TILA-RESPA rule.

¹ TILA-RESPA Integrated Disclosure Rule Small Entity Compliance Guide, Section 4.1 (September 2014)

² 12 CFR 1026.2(a)(17)(v).

³ 12 CFR 1026.2(a)(17)(v)-6.

⁴ TILA-RESPA Integrated Disclosure Rule Small Entity Compliance Guide, Section 4.1 (June 2015).

With the extended effective date, the CFPB now has an adequate time frame and opportunity to address this inconsistency so that credit union lending operations are not negatively impacted and credit union members can continue to receive services to meet their financial needs.

Conclusion

The MCUL appreciates the CFPB's decision to delay the effective date of the integrated disclosures rule under Regulation X and Regulation Z until October 3, 2015. Further, the MCUL appreciates the CFPB's ongoing efforts to continue to evaluate the impact of its regulations on small financial institutions in the post-mortgage crisis era. However, the MCUL encourages the CFPB to provide more clarity as well as further safe harbors while attempting to meet all of the agency's regulatory guidance.

We appreciate the CFPB's willingness to consider our comments and remain available for further discussion.

Sincerely,

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

Ken Ross
Executive Vice President & Chief Operating Officer