



March 30, 2015

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

RE: Docket No. CFPB-2015-0004 and RIN 3170-AA43
Proposed Amendments to Truth-in-Lending, (Regulation Z), Relating to Small Creditors
and Rural and Underserved Areas

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 4.7 million members, appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) proposal regarding amendments to Truth-in-Lending, also known as Regulation Z, affecting small creditors and rural and underserved areas.

“Small Creditor” Asset and Threshold Limit and CUSOs

The MCUL is appreciative of the CFPB's continued efforts to review existing regulations and identify opportunities to provide regulatory relief to small creditors such as credit unions. The increase in the first lien mortgage origination limit from 500 to 2,000 is encouraging. However, the CFPB is also proposing that creditors use the assets of affiliates as well as an affiliates' first lien mortgage originated loans when determining whether a creditor qualifies for “small creditor” status. These two additional requirements are counterproductive to the CFPB's efforts to increase the first lien mortgage origination limit. In the context of mortgage servicing rules, the CFPB has indicated that credit unions and Credit Union Service Organizations (CUSOs) should look to the Bank Holding Company Act (12 U.S.C. 1841 et seq.) when determining whether a business relationship constitutes an affiliate relationship. Credit unions and CUSOs are exempt from the Bank Holding Company Act. The CFPB's application of such guidance with respect to credit unions and CUSOs is misplaced and harmful to the credit union philosophy.

Credit unions are member-owned, not for profit financial cooperatives and put their members' financial needs first. Most credit unions are very small with an average of just 5-7 full time employees. Many credit unions do not have the resources to offer all the services and products requested by their members individually, therefore they work cooperatively in concert with other credit unions to provide these services. These CUSOs allow credit unions to pool their resources to better serve their members. The CFPB's proposal to include affiliate asset size and first lien mortgage originations when determining “small creditor” status discourages and penalizes credit unions from participating in CUSOs.

The mortgage industry has become highly regulated since the implementation of The Dodd-Frank Wall Street Reform Act (Dodd-Frank). Given the burdensome regulations and requirements imposed by Dodd-Frank, credit unions often look to a CUSO to provide mortgage expertise to its members. Requiring credit unions to look to the Bank Holding Company Act for regulatory guidance relating to their relationships with CUSOs is contrary to public policy and is inconsistent with the act's historical intent.

Gerald Hutto, President and CEO of Team One Credit Union offered these thoughts on the impact of these proposals to his credit union, which for the purposes of the Bank Holding Company act, has an affiliate relationship with a CUSO:

“Our CUSO alone has over 10,000 first lien mortgages they are servicing for other credit unions. These loans are not portfolio loans but originated and sold to FNMA and servicing retained. They are also doing first mortgage underwriting for a number of other credit unions and wondering if they are going to include those if they eventually sell those as well. It would also seem as if the mortgages will be counted twice under that scenario since the credit union that actually did the mortgage would also have to count these.

If we have to count the affiliate assets it would also be cause for concern since some of the affiliates do a lot of business with the CUSO and some are pretty sporadic. I don't see the reason behind counting assets for affiliates or their first lien mortgages. It would basically penalize credit unions for being involved in a CUSO arrangement and this may do away with the CUSO, which in turn will harm the smaller credit unions that do not have their own FNMA ticket. If they were to quit making mortgages it would not be beneficial for the membership and they would also lose income from the origination as well as servicing. A lot of the credit unions our CUSO deals with do not have the expertise nor the manpower for their own in house mortgage department.”

Additionally, the MCUL would like to know how the CFPB concluded that an increase in the first lien mortgage origination limit from to 500 to 2,000 would be sufficient. This figure seems arbitrary in nature and the MCUL encourages the CFPB to provide impact analyses to better demonstrate how communities and consumers would benefit from the increase to 2,000, or perhaps an even larger number. Providing stakeholders with an understanding of the CFPB's methodology on how it arrived at its proposed 2,000 threshold would allow the industry to provide more impactful comments on such a revision.

The CFPB is not proposing to increase its \$2 billion asset threshold limit, which is adjusted annually; however, the agency wants creditors to include the assets of affiliates when calculating its asset threshold limit. The MCUL believes that the \$2 billion threshold limit is both arbitrary and low. The MCUL requests that CFPB provide further clarity on the methodology used to derive its \$2 billion threshold limit. It appears as though the CFPB establishes threshold limits, such as asset size, as a means to protect consumers from predatory or harmful practices. However, the MCUL does not believe that asset size alone is an indicator of safe and sound practices. Credit unions practice prudent lending because it is in the best of interest of their members, irrespective of asset size.

Credit unions did not contribute to the mortgage crisis but continue to be caught in the cross-hairs of the CFPB's burdensome regulatory guidance. Additionally, it discourages credit unions from offering mortgage loans to their members, reducing competition in the marketplace. Credit unions have strong relationships with their members that are developed over many years; purchasing a home is huge milestone for many credit union members and the CFPB's regulations discourage credit unions from being a part of this important moment. The MCUL in conjunction with CUNA encourages the CFPB to increase its asset limit threshold to \$10 billion to allow more credit unions to partake in the regulatory exemptions offered by the CFPB.

Grace Periods

The CFPB is proposing to add a grace period to the threshold for its annual asset limit and mortgage origination limit to creditors that exceed those limits in the preceding calendar year. This would allow a creditor to operate as a small creditor until April 1 of the current year. Additionally, the CFPB is proposing to add a grace period for small creditors that fail to meet the threshold for lending in rural and underserved areas in the preceding calendar year to continue to operate as if it had met the threshold for applications received before April 1 of the current calendar year. The MCUL generally supports these proposed grace periods.

Time Period for Determining whether a Creditor Is Serving a Rural or Underserved Area

Currently, the CFPB allows creditors to use any of the three preceding calendar years when determining whether a creditor has more than 50% of its first-lien covered transactions secured by real property in a rural or underserved area. In its proposed amendments, the CFPB is looking to reduce its current threshold by allowing creditors to use any three of the preceding calendar years to only allowing creditors to use the preceding calendar year. The MCUL does not see the reasoning for such arbitrary revision. Such amendment restricts flexibility for creditors and the MCUL is opposed to this proposed change.

Escrow Accounts

The MCUL is supportive the CFPB's proposed escrow rules exemption for creditors that serve rural and underserved areas that establish escrow accounts for higher priced mortgages even though such accounts have already been setup. The MCUL agrees with such change and recommends that is be included in the final rule.

Safe Harbors

The CFPB is proposing a safe harbor for creditors that use the tools on the CFPB's website in determining whether real property is located in a rural or underserved area as well as whether real property is located in an urban area. Additionally, the CFPB's current safe harbor lists of rural and underserved counties would be continued. The MCUL supports these proposed safe harbors.

Definition of "Rural" and the Exclusion of Loans Held in Portfolio

The MCUL is supportive of the CFPB's proposal to exclude portfolio loans held by creditors and affiliates from the mortgage threshold as well as the enlarging the definition of "rural" areas to include census blocks that are not in an urban areas as defined by the Census Bureau. Both proposed revisions should be incorporated into the final rule.

Balloon Payments

The CFPB is proposing to extend the application deadline for covered transactions from January 1, 2016 to April 1, 2016 for creditors making balloon-payment qualified mortgages and balloon-payment high cost mortgages that do not predominantly operate in a rural or underserved areas. Balloon-payment loan structuring is a common loan product that many credit unions utilize to provide mortgage loans to their members. While the MCUL is generally supportive of extending the application deadline, the MCUL questions whether the CFPB should be limiting such balloon-payment mortgage loans to small creditors operating in predominantly rural or underserved areas. Many small credit unions rely on balloon-payment mortgage structuring as a way to manage interest rate risk. The CFPB should not arbitrarily limit balloon-payment mortgage loans to specific areas. Rather, credit unions should have the autonomy and flexibility to offer the best products to its members that is commensurate with their risk profile.

Conclusion

Credit unions are a trusted source of consumer home financing and have earned their members' trust by conducting their lending activity on fair and reasonable terms, not because Congress or any regulatory body has required them to do so, but because it's the right thing to do. Providing exemptions and continued regulatory relief for credit unions is vital to ensure that credit unions can continue to provide access to affordable financial services to their members and communities. Additionally, CUSOs play a pivotal role in cooperative philosophy of the credit union industry. The MCUL acknowledges and 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 be more aggressive in providing regulatory relief to the credit union industry.

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'.

Ken Ross
Executive Vice President & Chief Operating Officer