

February 22, 2013

Ms. Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G St., N.W.
Washington, D.C. 20552

Re: Docket No. CFPB-2013-0002; RIN 3170-AA34, Proposed Amendments to the Ability to Repay Standards under Regulation Z, Truth in Lending

Dear Ms. Jackson:

The Indiana Credit Union League (ICUL) appreciates the opportunity to comment on the the Consumer Financial Protection Bureau's ("CFPB") proposed amendments to the agency's Ability to Repay Rule under Regulation Z, Truth in Lending. The ICUL member credit unions represent 95% of assets and members of Indiana's credit unions, with those memberships totaling more than two million members.

We appreciate the efforts of the CFPB to continue to look at regulations and propose modifications that would add exemptions to the ability to repay requirements to improve the rule. The ICUL overall supports the proposed changes to the rule. However, we do believe that additional steps can and should be taken to further improve the rule and to avoid restricting credit unions' ability to work with their members by structuring loans in ways that help their members, particularly those members facing financial difficulties.

We agree with the CFPB proposal to define a new, fourth category of "qualified mortgages" (QMs) for loans originated by small creditors that have total assets of \$2 billion or less at the end of the previous calendar year; and together with all affiliates, originated 500 or fewer first-lien covered transactions during the previous calendar year which are loans held in portfolio by these creditors. We do not take issue with the requirement that these loans would have to conform to all of the requirements under the general definition of a qualified mortgage except the 43 percent limit on monthly debt-to-income ratio and the creditor would not have to use the instructions in Appendix Q to calculate debt-to-income ratio. We also agree with the CFPB proposal to allow small creditors operating predominantly in rural or underserved areas to offer first-lien balloon loans with a higher annual percentage rate that would also be deemed to qualify as QMs.

These changes could enable mortgage lenders to meet the mortgage needs of lower-income consumers who are nonetheless creditworthy. These changes will also allow eligible lenders to continue making good loans that might not otherwise be originated due to concerns with the current ability to repay rule.

We do believe that there are additional improvements that can be made, and encourage the CFPB to consider the following:

- Focus the restrictions on mortgage lending on those lenders who have created the problems in the past. This does not include credit unions. Credit unions were not part of the problem, and in the aftermath of the real estate crisis continued to work to meet the needs of their members. We believe that credit unions as a group should be exempt from the ability to repay regulations. Credit unions have always loaned money to their members in a way that affords the borrower the protections intended by the Dodd-Frank Act. We also believe that the CFPB has the authority to grant this type of exception.
- An additional alternative would be to extend the exemption granted to Community Development Financial Institutions (CDFIs) to credit unions that have been designated low-income credit unions (LICUs) by NCUA or the appropriate state supervisory authority. In order to be eligible for the CDFI designation, a credit union must first be designated as a LICU. An exemption for LICUs from the member business lending cap already exists in NCUA regulations. LICUs also have the ability to accept secondary capital, something that is not available to all credit unions. We believe exempting LICUs from the ability to repay provisions of the regulation is a reasonable extension of the CDFI exemption.
- At a minimum, we ask the CFPB to exempt credit union mortgage lenders from the arbitrary, and potentially limiting 43% debt-to-income (DTI) requirements of the regulation. Steps already taken by the CFPB indicate that the agency itself has concerns with the impact the DTI requirements may have on the market. Credit unions share this concern. We are concerned that regulators may use the regulation to pressure credit unions to follow the QM requirements including the 43% DTI ratio as the a firm limit on mortgages that can be made. Exempting credit union mortgage lenders from the DTI requirements would help ensure credit for mortgage loans remains available to lower income borrowers that need it the most. The DTI requirements have the potential to limit access to mortgage loans for lower income borrowers, which is a segment of the population that credit unions have always served. These regulations may have the unintended consequence of limiting credit unions' ability to continue to serve this group.
- For purposes of the ability to repay rule, we do not think that points and fees should include mortgage loan origination (MLO) compensation. Credit unions do not typically tie MLO compensation to the terms of a loan. The decision by the CFPB to continue the use of proxy factors in determining MLO compensation could result in some credit unions being affected by the rule on such compensation. This approach will potentially result in points and fees that exceed the 3 percent limit (or other limitations in the rules). As with other provisions, this could limit the ability of credit unions to cover their costs associated with mortgage lending, resulting in decreased access to mortgage loans to the consumer.

The CFPB is also seeking comments on whether more time for compliance is needed for certain small creditors. The agency stated that it is concerned that certain creditors will face compliance difficulties. We agree with this concern since the regulation is continuing to undergo modifications, many of which will not be resolved for several months. We believe the agency can establish a process where all not-for-profit

institutions, including credit unions, could be considered on a case-by-case basis for additional time beyond January 2014 to comply. This process should be as simple as possible, and not require a lot of supporting documentation to demonstrate that they cannot comply. Credit unions, like many other institutions, continue to be bombarded with regulatory changes that impact their operations and the multiple systems that they utilize to provide services to their members. The process to request an extended period of time to comply needs to be one that requires minimal information supporting their request for additional time to comply.

The ICUL supports the amendments but encourages the CFPB to further expand the exemptions to the rules that will benefit consumers and credit unions. We believe that much of what we have proposed above will improve the regulation while also affording participating credit unions greater regulatory relief. The end result will be continued access to credit for consumers, particularly low-income consumers, and more streamlined, less complicated compliance for credit unions.

We continue to encourage the CFPB to approach new or modified regulations in a fashion that targets those entities that have created the problems, not by targeting all organizations with a one-size-fits-all regulatory approach. The CFPB has been given the authority to include exemptions from the regulations, and we ask that the agency utilize this authority for the benefit of low- and moderate-income consumers served by credit unions. We also request the CFPB to allow as much time as possible for compliance, recognizing the impact of not just the proposed regulation, but also the impact of previous regulatory changes, and the expectation of future regulatory changes.

Thank you for the opportunity to comment on this important proposal.

Sincerely,
John McKenzie
President
Indiana Credit Union League