Deb McNeal <debm@icul.org>

Re: Indiana Credit Union League Comments on Proposed Rule - Home Mortgage Disclosure Act (Regulation C), Docket No. CFPB-2014-0019

1 message

John McKenzie <johnm@icul.org>
To: FederalRegisterComments@cfpb.gov
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Tue, Oct 28, 2014 at 3:41 PM

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

Re: Indiana Credit Union League Comments on Proposed Rule - Home Mortgage Disclosure Act (Regulation C), Docket No. CFPB-2014-0019

Dear Ms. Jackson,

The Indiana Credit Union League (ICUL) appreciates the opportunity to submit comments on the Consumer Financial Protection Bureau's proposed rule amending Regulation C. The ICUL member credit unions represent 97% of assets and members of Indiana's credit unions, with those memberships totaling more than two million consumers.

ICUL supports some provisions in the Bureau's proposal. The proposed elimination of reporting for unsecured home improvement loans will provide some relief to credit unions that may occasionally extend such loans. We also support the Bureau's proposal to allow institutions to refer members of the public who request the institution's Loan Application Register (LAR) to a public website. ICUL also appreciates the CFPB's effort to create an exemption from HMDA reporting for the smallest mortgage originators, by excluding those financial institutions that make fewer than 25 "covered loans" per year. However, that exemption does not go far enough to mitigate the overwhelming compliance burden that smaller financial institutions will suffer if the rule takes effect.

We have additional concerns including the time and costs that will be necessary for credit unions to gather and report the data points proposed under the Bureau's discretionary authority, the difficulty of reporting business-purpose loans and home equity lines of credit (HELOCs), and the serious privacy risks of collecting and retaining members' personal information within the Bureau and by potentially expanding the public LAR. Specific comments on these concerns follow.

1. The 25-loan threshold exemption must be increased

The proposal to eliminate reporting for institutions that originate less than 25 closed-end mortgages per year provides regulatory relief for a limited number of credit unions. The exclusion of HELOCs from the 25-loan threshold is particularly helpful to those small credit unions that only originate HELOCs; this proposed threshold ensures those credit unions will not be negatively affected by the expansion of Regulation C. We appreciate the Bureau's efforts in this regard.

However, the proposal does not go far enough. Using 2013 data, the proposed 25-loan threshold would have eliminated required reporting for one-third of Indiana credit unions (9 of 27 credit unions) under $200 million in assets that were otherwise HMDA reporters.[1] An additional 10 credit unions in this asset range reported at least 25 but less than100 originated loans. Seven of the 10 credit unions were under $100 million in assets. Six of the 10 have fewer than 30 full time employees. These credit unions do not have excess resources to invest in the technology and human capital necessary to comply with the proposed expansion of HMDA.

The Small Business Review Panel convened by the Bureau also recommended a threshold higher than 25 loans. [2] The Bureau should alleviate the reporting burden on small financial institutions by increasing the 25-loan threshold to 500 closed-end and/or reverse mortgagees per year based on the rationale of this being the already existing number of loans threshold in the ability to repay rules. The burden on these credit unions to report HMDA data outweighs the benefit of a small increase in reported loans to the CFPB and the public. We believe this is a reasonable compromise that would still allow the CFPB to conduct meaningful analysis of industry data as a whole, while lessening the burden on smaller institutions.

2. The Bureau should reconsider its proposal to add additional data points pursuant to its discretionary authority

The Dodd-Frank Act was passed following the 2008 financial crisis, a crisis in which large financial institutions were implicated. As the Bureau notes in its proposal, the Act provided the Bureau discretionary authority to require reporting of additional data points beyond those mandated by the Act. We do not believe the Bureau should use its authority at this time to implement the 15 discretionary data points outlined in its proposal.

According to the Bureau, the proposal as a whole will help it "understand better how to protect consumers' access to mortgage credit while simplifying the reporting requirements for financial institutions."[3] Rather than simplification for credit unions, the proposal complicates reporting by adding more time, expense, and potential for error. For example, several of these discretionary data points are calculated fields (debt-to-income ratio, combined loan-to-value ratio, and rate spread), rather than data pulled from an application, increasing the time necessary to collect the data and increasing the potential for errors in reported data.

Further, the technology used by large financial institutions which enables them to easily report the proposed discretionary data points is not yet affordable for smaller institutions. As a result, each additional discretionary data point gives a competitive advantage to these large financial institutions, many of which managed to grow significantly since the financial crisis.[4] Credit unions and other smaller financial institutions were not the cause of the financial crisis and should not bear the heaviest burden in complying with regulations that came out of the crisis.

3. Required reporting for HELOCs does not advance the purposes of HMDA sufficiently to justify the compliance cost to small institutions

Small institutions often treat home equity lines of credit (HELOCs) and closed-end mortgages differently, from application to closing (or account opening). For these institutions, HELOCs may be processed on consumer loan systems rather than mortgage loan systems; pulling the proposed HMDA data points from these systems often falls into two categories: impossible with the credit union's current system or possible only with an expensive technology upgrade. For credit unions that fall into the former category, the credit union may be forced to choose between two expensive choices: manual collection (and calculation, for some data points) or switching to a new loan origination system for HELOCs.

We call into question the benefit of HELOC data to the public and the Bureau compared to the burden on these institutions of collecting such data. Credit unions and their members often view HELOCs as more akin to consumer loans rather than traditional mortgage loans and members may use HELOCs for a variety of lending needs such as medical, education or vacation expenses, unrelated to home improvement. Because of these varying purposes, HELOC data will not help the Bureau determine whether institutions are meeting housing credit needs in communities nor will it significantly enhance analysis of potential discriminatory lending patterns. While the data might be interesting to the public and/or the Bureau, we don't believe the Bureau has presented a compelling reason sufficient to impose additional costs on credit unions for the collection and reporting of this data.

4. Business-purpose loans should not be included in the definition of "covered loan"

We also believe the Bureau should not mandate reporting of business-purpose loans secured by a dwelling. Credit unions may require business-purpose loans to be secured by the member's dwelling for regulatory reasons. Under NCUA regulations, dwelling-secured business-purpose loans are exempt from the definition of a "member business loan."[5] This is important to smaller federally-insured credit unions; NCUA regulations impose a greater regulatory burden on those credit unions that engage in member business lending. For example, credit unions that originate member business loans must adopt specific business loan policies and retain someone with

two years of experience specific to the type of member business lending engaged in by the credit union.[6]

Further, like HELOCs, business-purpose loans secured by mortgages may not be processed on the same system as consumer-purpose mortgages, credit unions may not collect or consider the same information in underwriting these loans, and collection of the data will not help the Bureau evaluate whether institutions are meeting community housing needs or evaluate the overall affordability of consumer mortgages. Requiring reporting of these loans increases compliance costs and is a disincentive for credit unions to offer business loans to their members; such a requirement may jeopardize the ability of smaller federally-insured credit unions to serve the lending needs of their small business owner members.

5. The Bureau has not adequately considered the privacy risks of additional data collection and expansion of the public Loan Application Register

The Bureau should not add any additional data points to the public Loan Application Register. Including any of the data points in the Bureau's proposal would enhance the ability of third parties to specifically identify applicants or borrowers. Third parties could use this information for any variety of purposes, ranging from deceptive marketing ploys to scams to identity theft. Some of the proposed data points, like property address or parcel number, easily connect the data to individual applicants and provide a direct method of contact. This serious privacy risk to individuals cannot be outweighed by any public benefit related to data analysis.

We are also concerned about the reporting of data to the Bureau. For example, a report last month from the U.S. Government Accountability Office noted that the Bureau "has not yet fully implemented a number of privacy control steps and information security practices, which could hamper the agency's ability to identify and monitor privacy risks and protect consumer financial data."[7] While we understand that certain data points are mandated by the Dodd-Frank Act, the Bureau's proposed discretionary data points just put additional data into the Bureau's hands, increasing the value of the information to hackers and creating additional security risks.

ICUL supports collection of a reasonable number of data points supported by specific, compelling reasons for data collection related to evaluation of housing and consumer mortgage needs. Unfortunately, the Bureau's proposal has the effect of repurposing Regulation C into a free-for-all data collection regulation for the Bureau, rather than a housing-focused consumer protection regulation.

Credit unions are already struggling with the cost of federal mortgage regulations. They invested resources into complying with the Bureau's new mortgage regulations. Even the smallest credit unions engaged in mortgage lending will spend thousands of dollars simply programming the new forms required by the integrated mortgage disclosures rule, and they will spend numerous hours on staff training to ensure compliance with the new regulations prior to August 2015.

The Bureau's current proposal to amend Regulation C effectuates another comprehensive regulatory change in the mortgage industry. We recommend the Bureau seriously consider our recommendations and the findings and recommendations of the Small Business Review Panel convened by the Bureau earlier this year. Finally, we encourage the Bureau to reconsider its proposal in light of the costs it would impose on credit unions and other small financial institutions compared to the largest financial institutions.

Thank you for the opportunity to comment on the proposal. If you have any questions about our letter, please do not hesitate to give me a call at (317) 594-5320.

Sincerely,

John McKenzie
President, Indiana Credit Union League

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[1] This assumes the credit unions made no closed-end home equity loans for purposes other than home improvement (such loans were not reported in 2013 but would be reported under the Bureau's proposal). If they did originate such loans, even these credit unions may be pushed above the 25-loan threshold as proposed by the Bureau.

[2] Final Report of the Small Business Review Panel on the CFPB's Proposals Under Consideration for the Home Mortgage Disclosure Act (HMDA) Rulemaking; pages 23, 37; Apr. 24, 2014; available at:http://files.consumerfinance.gov/f/201407_cfpb_report_hmda_sbrefa.pdf.

[3] CFPB Proposes Rule to Improve Information About Access to Credit in the Mortgage Market, Jul. 24, 2014, available at: http://www.consumerfinance.gov/newsroom/cfpb-proposes-rule-to-improve-information-about-access-to-credit-in-the-mortgage-market/.

[4] Gandel, Stephen; By every measure, the big banks are bigger; Fortune; Sept. 13, 2013; available athttp://fortune.com/2013/09/13/by-every-measure-the-big-banks-are-bigger/.

[5] 12 C.F.R. § 723.1(b)(1).

[6] 12 C.F.R. § 723.5(a).

[7] U.S. Government Accountability Office; "Consumer Financial Protection Bureau: Some Privacy and Security Procedures for Data Collections Should Continue Being Enhanced;" page 2; Sept. 22, 2014; available at http://www.gao.gov/assets/670/666000.pdf.