

March 30, 2015

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

**Re: Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act (Regulation Z); RIN 3170-AA43; Docket No. CFPB-2015-0004**

Dear Ms. Jackson:

The Indiana Credit Union League (ICUL) appreciates the opportunity to submit comments on the Consumer Financial Protection Bureau's (CFPB) proposed amendments relating to small creditors and rural or underserved areas under the Truth in Lending Act (Regulation Z). The ICUL member credit unions represent 96% of assets and members of Indiana's credit unions, with those memberships totaling more than two million consumers.

The proposed rule revises the regulatory definitions of small creditor and rural and underserved areas, which affect the escrow requirements for higher-priced mortgage loans (HPMLs), the ability to repay regulations, and certain requirements under the Home Ownership and Equity Protection Act. While the proposal is a positive step toward easing regulatory burden on small credit unions, we believe the CFPB can go significantly further to provide regulatory relief without jeopardizing consumer protections.

**A. Impact on Indiana Credit Unions**

The CFPB's complex and comprehensive regulatory reforms have stretched thin the resources of Indiana credit unions. A limited number of Indiana credit unions fall within the current definition of small creditor operating predominately in a rural or underserved area. Those credit unions that fall within the definition benefit from existing regulatory relief, such as the higher-priced mortgage loan (HPML) escrow exemption. Administering escrow accounts can be complex and costly endeavor for small financial institutions. Requiring such institutions to offer escrow on mortgage loans may significantly impact on a credit union's decision to offer closed-end mortgage products in house or at all, so such regulatory relief is extremely important.

The CFPB's amendments to the small creditor and rural and underserved definitions will likely extend this regulatory relief to additional credit unions in Indiana. However, we believe a few additional changes will have a greater positive impact on Indiana's credit unions that offer mortgages.

## **B. Amendments to Small Creditor Definition**

We support the expansion of the definition of small creditor to include creditors that originate 2,000 first-lien mortgage loans in a calendar year. We also support the proposal's exclusion of loans held in portfolio by the creditor and its affiliates from the limit. A credit union may hold mortgage loans in portfolio for a number of reasons and we agree that a credit union that chooses to retain ownership of such loans should not have to count such loans toward the limit. However, we also suggest that the bureau study the effect of further raising the origination threshold, as we believe that a higher limit would provide greater regulatory relief for credit unions while minimally impacting consumers.

The proposal would also amend the small creditor asset limit by including the assets of any mortgage-originating affiliate of the creditor in the current \$2 billion threshold. This provision effectively lowers the threshold amount for financial institutions with affiliates. Should the CFPB implement this provision, we believe the asset threshold should also be increased.

We also remain concerned about the CFPB's definition of "affiliate" for this purpose. The regulation currently refers to the Bank Holding Company Act of 1956 to determine whether a relationship constitutes an affiliate relationship. Since credit unions are exempt from this statute, we believe this is not an appropriate analysis to determine whether a credit union's relationship with a credit union service organization (CUSO) is an affiliate relationship. The CFPB should clarify that CUSOs are not affiliates for determining whether a financial institution is a small creditor.

## **C. Amendments to Rural Definition and Safe Harbor Provisions**

We support the amended definition of rural areas to include all census blocks that are not in urban areas, as defined by the U.S. Census Bureau. We also support the proposal's safe harbor provision expansion for creditors that use tools available the CFPB's website to determine whether a property is located in a rural or underserved area.

## **D. Balloon Payment Mortgages**

We support proposal's extension of the temporary period under which small creditors may originate mortgages with balloon payments. Particularly, we believe it is important for small creditors that wish to use this provision to originate qualified mortgages to have that flexibility available to them.

## **E. Changes to Three-Year Look Back and Grace Periods**

We generally support the CFPB's proposed grace period for creditors that fall outside of the definition of small creditor by exceeding the origination limit or asset limit. The proposal would allow such creditors to continue operating as small creditors for mortgage applications received before April 1 of the current year.

However, we strongly oppose the CFPB's proposal limiting the look back period that creditors use to determine whether they have fallen outside of the rural or underserved definition. The current regulation includes a three-year look back period which allows a creditor to consider any of the three preceding calendar years to meet the definition of rural or underserved. For example, to fall within the definition for the current year, more than 50 percent of a creditor's first lien covered transactions must be secured by properties in rural or underserved areas in *any* of the three prior calendar years. The proposal would change this analysis by only allowing the creditor to consider the previous calendar year's transactions.

Even with a three month grace period, we believe this is unworkable, especially for small credit unions. Small institutions, particularly those that originate few covered transactions in a year, may see fluctuations in the number of mortgages originated in rural or underserved areas from year to year. Credit unions that otherwise qualify as operating predominately in rural or underserved areas may also experience unanticipated changes based on mergers or field of membership expansions. We do not believe the Dodd-Frank Act's intent is to punish small creditors that experience unanticipated fluctuations in one single year by imposing an escrow requirement in perpetuity for all HPMLs.

Further, institutions that find themselves unexpectedly falling outside of this definition may need to engage a vendor to continue originating mortgages, and such institutions should be allowed ample time to complete required vendor due diligence and implement new policies and procedures for such loans. Three months is insufficient for this purpose.

We urge the CFPB to retain the three-year look back period in the current regulation to both provide regulatory relief for small institutions and to allow institutions unexpectedly falling outside of the definition time to determine the best course of action and complete adequate vendor due diligence.

## **F. Summary**

We applaud the CFPB for proposing to lessen the regulatory burden on certain small creditors that originate mortgages. While the proposal is a positive step for a limited number of credit unions, we continue to believe the CFPB should exercise its authority under the Dodd-Frank Act to limit regulatory requirements for all credit unions. We urge the bureau to take additional steps in this direction to carry out the Dodd-Frank Act's intent to treat small creditors differently than large ones and provide needed regulatory relief for credit unions.

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