

February 17, 2012

Ms. Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1500 Pennsylvania Avenue NW (Attn: 1801 L Street)
Washington, DC 20220

Re: Docket No. CFPB-2011-0023, RIN 3170-AA06
Comments regarding S.A.F.E. Mortgage Licensing Act (Regulations G & H) Interim Final Rule

Dear Ms. Jackson:

The Credit Union National Association (“CUNA”) appreciates the opportunity to comment on the Consumer Financial Protection Bureau’s (“CFPB” or “Bureau”) interim final rule (“Rule”) on its new Regulations G and H, 12 CFR Part 1007 and 1008, respectively. We appreciate your consideration of our views on this important matter. While we recognize that the Rule substantially duplicates the rules previously promulgated by the OCC, the Federal Reserve Board, the FDIC, the OTS, the Farm Credit Administration, and the National Credit Union Administration (NCUA) (hereinafter referred to as “Previous Rules”), and does not impose any new substantive obligations on regulated entities, CUNA wishes to take this opportunity to provide input to the CFPB concerning the substance of the Rule itself.

By way of background, CUNA is the nation’s largest credit union trade organization, representing approximately 90 percent of our nation’s 7,300 state and federal credit unions, which serve 94.5 million members.

Clarification of Defined Terms is Needed

CUNA has had longstanding concerns, which we have provided to NCUA, regarding the use of certain terms in the rule. We continue to believe that additional guidance is needed with regard to the definition of a “mortgage loan originator.” While we appreciate the guidance and examples contained within Appendix A, now duplicated in the appendices of the Bureau’s Regulations G and H, we would urge the CFPB to provide additional detail on the definition of “mortgage loan originator,” especially in light of the phrases “taking of an application” and “offering or negotiating terms of a loan.” Credit unions across the nation continue to be perplexed as to when these two prongs of the “mortgage loan originator” definition are met and when they are not.

Additionally, we urge the Bureau to provide additional examples either within Appendices A to Regulations G and H or within § 1007.102 and 1008.23, respectively, with regard to the term “administrative or clerical tasks,” to assist credit unions in being able to definitively determine whether or not an employee falls under the mortgage loan originator registration or licensing requirements. While at first glance, the term “administrative or clerical tasks” appears to be rather self-explanatory, credit unions often times have mortgage loan processors and other staff members perform certain tasks that are outside of the current definition, yet such tasks do not clearly meet the 2-pronged test of the definition of “mortgage loan originator.” In these instances, credit unions face regulatory uncertainty where we believe that additional guidance and/or clarification from the CFPB would be of assistance.

Finally, we urge the Bureau to consider adopting the language contained within Appendix A to Part 1008 relating to the phrase “for compensation or gain,” and make this a part of Appendix A to Part 1007, to provide credit unions with clarity for how this term is to be defined in the context of § 1007.102 within the definition of “mortgage loan originator” for affected employees and volunteers. Similarly, we urge the Bureau to consider reconciling this particular language in any such adopted guidance with the examples listed within Appendices A to Regulations G and H under the phrase “Offering or negotiating a loan for compensation or gain.” Credit unions often have volunteers who serve as Board members or members of a credit committee who are neither employees of the credit union nor compensated for their services. See 12 U.S.C. 5102(3)(A)(i)(II). In such instances, CUNA believes that volunteers should be exempted from the S.A.F.E. Mortgage Licensing Act registration requirements, as such volunteers are not “employee[s] of a covered financial institution” for purposes of the registration requirements contained within § 1007.103(a)(1).

CUNA strongly believes that the Bureau’s consideration of the above comments and suggestions will assist in further reducing the regulatory burden that credit unions currently face, and we appreciate the opportunity to comment on the CFPB’s new Regulations G and H. If you have any questions concerning our letter, please feel free to contact CUNA’s Senior Vice President and Deputy General Counsel, Mary Dunn, or me at (202) 508-6732.

Sincerely,



Jared Ihrig
Regulatory Counsel