



Credit Union National Association

cuna.org

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734

June 3, 2013

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

In re: Docket No. CFPB-2013-0010; RIN 3170-AA37

Dear Ms. Jackson:

This letter represents the views of the Credit Union National Association on the CFPB's proposed amendments to provisions regarding the small servicer exemption under Regulation X, Real Estate Settlement Procedure Act, eligibility for determining qualified mortgage status under Regulation Z, Truth in Lending Act, and other issues. By way of background, CUNA is the nation's largest credit union trade organization, representing approximately 90 percent of our nation's 7,000 state and federal credit unions, which serve over 96 million members.

CUNA Generally Supports the CFPB's Proposal But Remains Concerned with the Small Servicers' Exemption

The proposed changes reflect concerns that CUNA has raised with the CFPB, and we support the agency's efforts to factor credit unions' issues into its rule makings.

In particular, the proposed change under § 1026.41(e)(iii)(A) that would allow credit unions and others to exclude mortgage loans they voluntarily service for nonaffiliated entities when determining whether the small servicer exemption applies is an important change.

This amendment will facilitate the work of organizations such as Habitat for Humanity because they will be able to continue benefiting from credit union servicing while allowing the credit unions affected to avoid some additional compliance burdens that would otherwise apply. We also commend the Bureau for proposing to include additional examples of how to determine the small servicer exemption within the Official Staff Commentary.

CUNA supports proposed comment §1024.5(c)(1)-1 that clarifies that State laws in conflict with the requirements of RESPA or Regulation X may be preempted by these federal requirements, and that nothing in RESPA or Regulation X should be



OFFICES: | WASHINGTON, D.C. | MADISON, WISCONSIN

construed to preempt the entire field of regulation relating to States' regulation of mortgage servicing. Additionally, CUNA supports the Bureau's view that RESPA and Regulation X do not preempt State laws that give greater protection to consumers than the federal approach does.

CUNA also supports the Bureau's proposed amendment of Section 1026.41(e)(4)(ii)(A) and associated Official Staff Commentary to clarify that a small servicer is a servicer that "services, together with any affiliates, 5,000 or fewer mortgage loans, for all of which the servicer (or an affiliate) is the creditor or assignee." We agree with the agency's analysis that for purposes of determining whether the cap has been exceeded, the number of loans serviced by an affiliate as defined under the Bank holding company Act, consistent with 12 C.F.R. 1026.32(b)(2) should be taken into consideration.

The Bureau is proposing changes to comment 1026.43(e)(4)-4 that would make it clear that if a loan is eligible for purchase or guarantee by a Government Sponsored Enterprise or is insured or guaranteed by a federal agency, the loan could be a qualified mortgage under the Ability to Repay Rule. This is an important clarification.

We also want to highlight the Director's commitment to the continuation of credit availability for creditworthy borrowers that exceed a 43% debt to income ratio, one of the benchmarks under the QM test. Last month, the Federal Housing Financial Agency issued a statement that it is directing FNMA and FHLMC to limit future mortgage acquisitions to loans that meet QM requirements. This would exclude the purchase of interest only loans, loans with 40-year terms and loans with points and fees above the 3% limit. However, the FHFA indicated that these GSEs will continue to purchase loans with a debt-to-income ratio of more than 43% fees and points. We hope the CFPB will help ensure the GSEs remain flexible in purchasing certain non-QM loans and continue its efforts to encourage the ability of prudent lenders to make mortgage credit available to borrowers who fall outside of QM measures, but nonetheless can substantiate their ability to repay the loan.

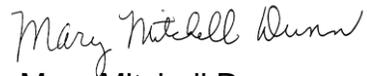
While we appreciate the changes and commend the agency for them, our members continue to question whether the agency has more latitude to exempt small servicers from the servicing requirements. We believe the answer to that question is "yes," given the agency's flexibility to provide the exemption for small servicers under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The chief concern is that some credit unions servicers would be eligible for the exemption based on the number of loans they actually service. Yet, they will be disqualified when they utilize a third party subservicer to service even one of their loans if the third party services more than 5,000 loans. Being able to use a subservicer facilitates a credit union's ability to make loans. We are hopeful that the CFPB will give this issue further consideration and allow servicers that predominately service their own loans but that also use a subservicer for some, say up to 25% of their loans, to continue to be exempt from key provisions of the

servicing rule. We would be pleased to discuss this further with officials at the CFPB.

Thank you for the opportunity to comment on the proposed changes and clarifications that relate to loan servicing and qualified mortgages.

Sincerely,

A handwritten signature in cursive script that reads "Mary Mitchell Dunn".

Mary Mitchell Dunn
CUNA Deputy General Counsel and Senior Vice President