Credit Union National Association
CUNA

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June 11, 2019

Office of Regulations
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Home Mortgage Disclosure (Regulation C); Docket No. CFPB-2019-0021; RIN 3170-AA76

Dear Sir or Madam:

The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members. On behalf of our members, we are writing regarding the Consumer Financial Protection Bureau's (CFPB or Bureau) proposal to amend the transactional thresholds for reporting data pursuant to the Home Mortgage Disclosure Act (HMDA) Rule.

General Comments

Credit unions support the mission of HMDA and its mortgage reporting requirements, but its noble objectives should also be balanced by an appropriately tailored regulation. As not-for-profit, member-owned financial cooperatives, credit unions strive to provide the highest level of service to their members. In fact, the CFPB has repeatedly acknowledged that credit unions maintained sound credit practices through the economic crisis and did not engage in the practices that led to the crash of the housing market. Nevertheless, the HMDA rule has disproportionately burdened credit unions, due to their finite resources, despite no evidence of past wrongful conduct.

For several years, CUNA has called on the CFPB to modify the 2015 HMDA Rule and take action to provide meaningful reporting exemptions to provide relief to credit unions. It is increasingly difficult for credit unions to effectively participate in the mortgage lending market when they are forced to comply with rules not tailored to their size or structure. Although recent developments have sought to provide HMDA relief to the smallest mortgage lenders, including the current reporting thresholds and the S. 2155 partial exemption, CUNA urges the Bureau to consider the following additional amendments to HMDA's transactional coverage thresholds:

1. Increase the closed-end mortgage loan threshold to 500 loans in each of the prior two years. Barring the adoption of a 500 closed-end mortgage loan threshold, the CFPB should finalize the proposed 100 loan threshold <u>at a minimum</u> to exempt credit unions with small mortgage lending portfolios from HMDA reporting.
2. Allow reporting of open-end lines of credit to once again be voluntary. Open-end line of credit reporting was voluntary prior to the 2015 HMDA Rule as these loans are often treated separate and distinct from dwelling-secured mortgages. Barring the return to voluntary reporting, the CFPB should make permanent the current 500-line threshold rather than reducing the threshold after a short extension, as proposed.

Based on our analysis, the CFPB's proposal to increase the closed-end mortgage loan threshold from its current level of 25 to 100 loans would provide HMDA relief to over 750 credit unions. While this is a step in the right direction, CUNA recommends the Bureau go further and establish a threshold of 500 closed-end mortgage loans, which would reduce the regulatory costs associated with HMDA compliance for over 1,500 credit unions. With respect to open-end lines of credit, if the Bureau decreased the reporting threshold from 500 to 200 lines after the year 2022, as stated in the proposal, then nearly 200 credit unions could lose their current reporting exemption and be required to report data on their open-end lines of credit. CUNA has serious concerns with the costs that could be incurred by affected credit unions and, instead, requests the Bureau to make HMDA reporting voluntary for these products – as it was prior to the 2015 HMDA Rule.

Summary of Proposed Rule

The CFPB is proposing to amend Regulation C, which implements HMDA and subsequent statutory amendments, to increase the threshold for reporting data about closed-end mortgage loans. In the proposal, the CFPB would increase the closed-end mortgage loan threshold from 25 loans to either 50 or 100 loans originated in each of the prior two calendar years. In addition, the proposal would adjust the threshold for reporting data on open-end lines of credit by extending until January 1, 2022, the current temporary threshold of 500 open-end lines of credit and subsequently reduce the threshold to 200 lines. The Bureau is also proposing to incorporate into Regulation C the interpretations and procedures from its August 31, 2019, HMDA Interpretive Rule, and further implement Section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act[1].

Closed-End Mortgage Loans

Under the current HMDA Rule, in addition to meeting other criteria outlined in Regulation C, a mortgage lender is required to collect and report data to the CFPB if the entity made 25 or more closed-end mortgage loans in each of the prior two calendar years. While CUNA acknowledges the proposed 100 loan threshold is an improvement upon the status quo, we believe the Bureau is not going far enough to mitigate HMDA reporting burdens on small credit union lenders. The proposal's alternative reporting thresholds of either 50 or 100 loans should be significantly increased, and CUNA strongly encourages the Bureau to adopt a threshold of 500 loans in each of the prior two years.

Based on economic data and feedback from credit unions, CUNA recommends the Bureau increase this threshold far above the figures in the proposal to more appropriately tailor the HMDA Rule to avoid negatively affecting smaller financial institutions with no track record of redlining or fair lending violations. The current 25 loan threshold provides little meaningful benefit to credit unions participating in mortgage lending and an increase to either 50 or 100 loans would be merely a marginal improvement. Although a 100-loan threshold is CUNA's preferred of the two proposed alternatives, we strongly recommend the CFPB adopt a threshold of 500 loans. According to our analysis, a 250 loan threshold would provide credit unions with over $33.5 million in estimated cost savings while a 500 loan threshold would provide nearly $42 million in savings (*see table*). Credit unions could use these savings to improve member service, increase consumer-friendly product offerings, and invest in their communities. Credit unions urge the Bureau to take an aggressive approach to regulatory relief because the benefits far outweigh the potential costs.

[1] Pub.L. 115–174.

Estimated Savings to Credit Unions from Increasing HMDA Thresholds		
*Number of Additional CUs Exempted from Threshold Increases**		
Threshold Change	**All Closed-End Mortgages**	**Estimated Savings**
25 to 100	763	$20,806,650
25 to 250	1,231	$33,568,790
25 to 500	1,528	$41,667,840

*Notes. Estimated Savings based on Cornerstone Regulatory Burden study that estimated total $155,000,000 annual cost of HMDA on all credit unions. That translates to approximately $27,269 per credit union, which is multiplied by the estimated number of credit unions exempted from HMDA to obtain the "Estimated Savings".

Open-End Lines of Credit

The 2015 HMDA Rule requires covered financial institutions to report data on open-end lines of credit. However, the 2015 HMDA Final Rule was amended in 2017 to provide a temporary exemption from open-end lines of credit reporting for financial institutions that originated fewer than 500 open-end lines of credit in either of the two preceding calendar years.

CUNA supports the CFPB's promulgation of reporting thresholds exempting small mortgage lenders from HMDA's requirements and appreciates the Bureau's efforts to minimize the harmful impacts on these entities. However, we strongly urge the CFPB to reconsider the proposal's treatment of open-end lines of credit, which would ultimately reduce the open-end line of credit threshold from 500 to 200 lines after the year 2022. This reduction would result in nearly 200 credit unions losing their current reporting exemption, saddling those credit unions with the significant costs and challenges associated with reporting HMDA data to the CFPB on their open-end lines of credit. The consequence of this action is affected credit unions' finite resources being diverted away from customer-facing products and services and reallocated toward increased compliance staff and vendor contracts. This outcome is not in the best interest of consumers.

Open-end lines of credit have characteristics that would amplify the compliance burden imposed on credit unions required to report HMDA data on these products. Specifically, open-end lines of credit are frequently administered in consumer lending functions of credit unions, rather than in mortgage lending functions. This means open-end lines of credit are maintained on separate computer operating systems and platforms outside of the traditional mortgage loan origination systems. As such, if required to report data due to the reduced threshold after 2022, nearly 200 credit unions would be forced to undergo the operational difficulties and significant expense in compiling and aggregating the required HMDA data points for open-end lines of credit.

CUNA remains critical of the CFPB's decision to require mandatory reporting of open-end lines of credit in its 2015 HMDA Rule. Prior to that change, open-end line of credit reporting was optional for institutions that are required to report under HMDA. As we stated previously, credit unions question the utility of reporting open-end lines of credit data: when a consumer has already acquired a house, obtaining data on a subsequent dwelling-secured line of credit, especially a first draw amount, would provide little or no added value in furthering the purposes of HMDA. CUNA urges the Bureau to return to the pre-2015 HMDA Rule's voluntary reporting of open-end lines of credit. Barring a return to voluntary reporting, CUNA strongly recommends the Bureau make the current 500-line threshold permanent to ensure current member resources continue to be dedicated to member service.

Compliance Considerations

The compliance and operational burdens of the Bureau's HMDA Rule are, at best, overwhelming for credit unions required to report data. With any significant change to the rule – even changes for the better – systems must be reprogrammed, staff members must be trained or retrained, and existing application forms must be amended. In addition to the operational costs, affected credit unions may need to consult and negotiate with technology vendors, renegotiate service provider contracts, and schedule these same providers to install and configure data processing systems and software to accommodate and comply with relevant reporting requirements.

Considering these challenges, CUNA recommends that the Bureau provide a meaningful grace period while transitioning between reporting thresholds so impacted credit unions have an opportunity to adjust processes and systems without any risk of negative examination findings. For example, the Bureau could establish a "good-faith efforts" period for HMDA compliance, as it has done so previously with other regulatory changes, and encourage other regulators, especially the NCUA, to do the same.

Regulatory Burden

The current regulatory environment, created under Dodd-Frank, favors the largest banks and non-bank financial services providers. These large entities can afford to absorb the significant regulatory and compliance costs from the thousands of pages of new rules and regulations. It has made it significantly more difficult for credit unions to provide the affordable financial services that our members depend on and deserve.

A CUNA study entitled, "2017 Regulatory Burden Financial Impact Study: An Elevated New Normal,"[2] revealed that credit union regulatory costs have continued to increase. The regulatory burden for credit unions has increased to an "elevated new normal," totaling an estimated $6.1 billion in 2016. Costs are up more than $800 million compared with 2014. That is a 15.1 percent increase, which far exceeds the 2.8 percent inflation rate over the two-year period. In total, the credit union regulatory burden costs for 2016 translate to $115 per credit union household.

When a regulation applies to a credit union, there are substantial costs that must be incurred: staff time and resources must be applied in determining what is necessary to comply with the regulation; forms and disclosures must be changed; data processing systems must be reprogrammed; and staff must be retrained. It also takes time and resources to discuss regulatory changes with credit union members, particularly when they are frustrated because changes are impacting the way they receive products and services. Therefore, CUNA urges the Bureau to prioritize reducing compliance burdens for credit unions and other community-based financial

[2] Credit Union National Association (CUNA), Regulatory Burden Financial Impact Study: An Elevated New Normal, 2017.

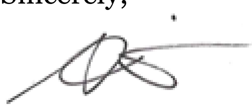
institutions, especially in the area of HMDA reporting. The CFPB's proposal could go much further to bring credit unions out from under the considerable weight of the HMDA Rule, which is one of the most costly and complex regulations affecting mortgage lenders.

While the goal of providing quality mortgage data for consumers and the public is important, credit unions are already providing quality mortgage products and services to their members. The Bureau should focus its regulatory efforts on institutions with a history of questionable behavior, rather than credit unions who abide by the rules and provide the highest levels of service to their members. We urge the Bureau to be mindful of these considerations as it moves forward on amending reporting thresholds and adopting other amendments to the HMDA Rule.

Conclusion

We look forward to continuing to work with the CFPB on our shared goal of consumer protection and for the availability of safe and affordable financial products and services. On behalf of America's credit unions and their 115 million members, thank you for your consideration.

Sincerely,



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