

February 4, 2021

The Honorable David Uejio
Acting Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Acting Director Uejio:

The Credit Union National Association (CUNA) represents America's credit unions and their 120 million members. On behalf of our members, we would like to send our sincerest congratulations to you on your appointment as Acting Director of the Consumer Financial Protection Bureau (CFPB or Bureau). CUNA and credit unions look forward to working with you in your capacity as Acting Director, and we trust you will quickly recognize the unique structure of credit unions and the enormous benefit they provide to American consumers in need of financial services.

General Comment

Credit unions are the original consumer financial protectors. Because of the not-for-profit, member-owned cooperative structure, credit unions are not subject to the profit-first motives characteristic of for-profit financial services providers. This distinction, combined with a track-record of providing consumer-friendly financial services, is a key reason that laws and regulations should be tailored so they are not overly burdensome on credit unions. Consumers lose when one-size-fits-all regulations force credit unions to pull back safe and affordable options from the market, pushing consumers into the arms of entities engaged in the very activity the CFPB's rules were designed to curtail.

With this in mind, we would like to address several pressing issues and extend an offer to provide any necessary feedback, data and expertise that would assist you in leading the Bureau during this critical transitional period.

The Bureau Should Consider the Continued Need for Policy Statements Issued in Response to the COVID-19 Crisis Prior to Making Final Decisions on Which Statements to Rescind and Which to Continue

CUNA and credit unions look forward to working closely with the CFPB as we continue to help members manage their finances during the COVID-19 crisis and its aftermath. Since the beginning of the pandemic, the Bureau has been proactive in issuing policy statements and acting on several key consumer finance issues, including credit reporting, mortgage servicing, small dollar lending, remittances, and regulatory reporting extensions. These actions have been helpful in clarifying the CFPB's supervisory expectations during this unprecedented crisis and allowed service providers to act swiftly to help member and consumers in need – without the fear of examiners' second-guessing after the current crisis subsides.

We strongly urge you, in considering whether to continue the prior leadership's supervisory policies, to conduct a thorough evaluation of these policies before making final decisions on whether any should be rescinded or amended. This analysis should include consideration of the feedback of regulated entities, such as credit unions. Credit unions have appreciated the flexibility that the CFPB has provided over the past year, but more will be needed to help consumers during the continuing pandemic and its aftermath. A rigid approach to the Bureau's functions could adversely impact consumers' financial options and the ability of service providers to meet their needs.

The Bureau Should Allow Its Recently Finalized Qualified Mortgage (QM) Rules to be Implemented without Delay

On January 20, 2021, President Biden’s Chief of Staff issued a memorandum to the heads of executive departments and agencies outlining the terms of a regulatory freeze.¹ The regulatory freeze could affect several CFPB rulemakings issued in recent weeks should you choose to abide by the parameters of memorandum. We are particularly concerned about the destabilization that might occur in the mortgage lending market should the CFPB choose to delay its recent Qualified Mortgage (QM) rulemakings, which are slated to become effective on March 1, 2021.²

In October 2020, the Bureau replaced the January 10, 2021 sunset date the Temporary GSE QM “patch” to coincide mandatory compliance date of the final rule amending the General Qualified Mortgage (QM) loan definition in Regulation Z.³ The mandatory compliance date of the General QM definition rule is currently July 1, 2021. If the Bureau were to delay the effective date of the General QM loan definition in order to conduct a protracted review of the rule as outlined in the memorandum, then it would be creating needless uncertainty and encouraging speculation as to the status of QMs going forward. We strongly believe the CFPB should avoid inadvertently creating any gaps in QM coverage that would disadvantage borrowers and create confusion in the nation’s economically vital mortgage lending market. As a result, we recommend you permit the March 1 effective date for these critical QM rules to proceed without delay, which will help ensure that the nation’s mortgage market remains a bright spot in an unexpectedly upended economy. Credit unions originated record numbers of mortgages in 2019 and 2020, and these important regulatory updates will help ensure the QM protections exist to underwrite safe, sustainable, and affordable mortgages for members in 2021 and beyond.

Regulatory Approach

CUNA strongly urges the Bureau to consider the impact its actions may have on credit unions and their members and to appropriately tailor rulemakings and policy statements to provide flexibility for community-based financial institutions, as appropriate. The Bureau’s rulemakings and supervisory efforts should be focused on Wall Street banks and the unregulated and under-regulated sectors of the financial services industry, where there has been evidence of predatory or unfair and deceptive consumer practices.

Credit unions are unlike any other institution in the financial services space and are best positioned to succeed when policy is made with their special characteristics in mind. For that reason, the Bureau should consult and work closely with the National Credit Union Administration (NCUA), a regulator particularly familiar with credit unions’ unique characteristics, during rulemakings and when determining supervisory policies.

Conclusion

On behalf of America’s credit unions and their 120 million members, we look forward to working with you during your time at the helm of the Bureau to ensure consumers are protected from bad actors in the consumer financial services market.

Sincerely,



Jim Nussle
President & CEO

¹ Memorandum for the Heads of Executive Departments and Agencies, 86 Fed. Reg. 7424 (January 28, 2021).

² See Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z): General QM Loan Definition, 85 Fed. Reg. 86308 (Dec. 29, 2020) and Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z): Seasoned QM Loan Definition, 85 FR 86402 (Dec. 29, 2020).

³ Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z): Extension of Sunset Date, 85 FR 67938 (Oct. 26, 2020).