COMMENT LETTER

# On Information Regarding CFPB Rulemaking Processes

June 7, 2018
|
Download PDF

Monica Jackson, Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC
Docket No. CFPB-2018-0009

*Re: Request for Information Regarding Bureau Rulemaking Processes*

Dear Ms. Jackson,

The Conference of State Bank Supervisors ("CSBS" or "state regulators") appreciates the opportunity to comment on the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") Request for Information Regarding Bureau Rulemaking Processes ("RFI"). CSBS is the nationwide organization of state regulators from all 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. CSBS supports the state banking agencies by serving as a forum for policy and supervisory process development, by facilitating regulatory coordination on a state-to-state and state-to-federal basis, and by facilitating state implementation of policy through training, educational programs, and exam resource development.

In addition to chartering and supervising 4,409 of the nation's banks, a figure that represents 79 percent of institutions with over five trillion in combined total assets, CSBS member agencies are also the primary regulators of over 20,000 non-depository financial services providers, including: residential mortgage lenders and servicers, money service businesses and money transmitters, debt collectors, consumer and small dollar loan lenders, and emerging and established financial technology companies. State regulators and the CFPB exercise concurrent regulatory, supervisory and enforcement authority over certain depository and non-depository institutions. In the spirit of cooperative federalism, this authority has been exercised on a coordinated basis through the State Coordinating Committee (SCC) , the multi-state regulatory oversight group responsible for the coordination of multi-state, nonbank financial services examinations with the CFPB. CSBS appreciates the mutual partnership with the Bureau and looks forward to continuing coordinated supervision and information sharing with the CFPB.

State regulators acknowledge the CFPB's willingness to review and seek public input on the Bureau's Rulemaking Processes. State regulators, through CSBS, have engaged with the Bureau through the public comment process on many of the Bureau's proposed rules. We appreciate that the Bureau has made changes to their proposed rules based on comments submitted by state regulators and other stakeholders.

State regulators are also supportive of the mechanisms used by the Bureau to gather feedback from stakeholders. Issuing an RFI on a topic such as the small business lending market prior to the issuance of a proposed rule that would have major impacts on covered entities (ex—implementation of Dodd-Frank Act Section 1071 requirements) allows for commenters to provide feedback throughout all stages of the rulemaking process.

While state regulators are supportive of the Bureau's outreach and information gathering processes related to rulemaking, we feel that the Bureau's proposed and final rules have often been unnecessarily lengthy and complex. Accordingly, there are several steps that the Bureau could take to simplify and condense the content of proposed and final rules. To ensure that rule text is clear and compliance requirements are understood, state regulators believe that the Bureau should:

- Ensure that compliance expectations are clear. Given the length and complexity of the Bureau's rules, requirements contained within rulemakings can be easily obscured and confused, especially by small institutions with limited compliance resources. State regulators appreciate that the Bureau has released small entity compliance guides for certain rules, and encourage the Bureau to continue to do so.
- Consider the benefits of a community-bank definition for the purposes of determining a rule's applicability. CSBS has longstanding policy in support of the FDIC's research definition of a community bank , which considers an institution's business activities, funding characteristics, and geographic footprint. The definition provides a model approach that can be used to appropriately tailor regulations for smaller entities. Adopting a community bank definition would simplify the rulemaking process by eliminating the need for complex and prescriptive regulatory relief measures that are often inconsistent across banking agencies.
- Allow for at least 90 days to comment on substantial rulemakings.
- Continue the practice of hosting briefings for state regulators on substantial rulemakings.

We appreciate the opportunity to comment on the CFPB's RFI regarding its rulemaking processes and look forward to continued engagement with the Bureau regarding proposed rulemakings.

Sincerely,

John Ryan
President & CEO

---

*[1] The SCC is comprised of members of representatives from six state financial regulatory associations, including: AARMR, CSBS, MTRA, NACCA, NACARA, and NASCUS. Established in 2013, the SCC's overarching goal is to maintain consistent standards for examinations, while promoting efficient information sharing between the CFPB and state regulators. The SCC has helped to improve state-to-state and state-to-federal coordination in non-depository supervision in unprecedented ways. From routine meetings, to scheduling and monitoring coordinated examinations, to exchanging confidential supervisory information, these efforts make the supervision of non-bank financial services providers not only more efficient by eliminating regulatory redundancies but also more effective by enhancing the supervisory capacity of state and federal regulators.*

*[2] 2012 FDIC Community Banking Study. See FDIC Research Definition of Community Banking Organizations in Table 1.1 of Chapter 1. Available here.*