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CONFERENCE OF STATE BANK SUPERVISORS

March 30, 2015

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

Docket Number: CFPB-2015-0004

Dear Ms. Jackson,

The Conference of State Bank Supervisors (CSBS) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) proposed rule, entitled *Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act*. CSBS supports the CFPB's proposed changes, as they expand the definitions of small creditor and rural or underserved areas. The proposal recognizes the inherent differences between the portfolio-lending business model of community banks and lenders that primarily originate loans to distribute them into the secondary market. If enacted as proposed, the revisions would encourage more banks to engage in portfolio lending and better serve rural and underserved markets.

SMALL CREDITOR DEFINITION

Since the original Ability to Repay (ATR)/Qualified Mortgage (QM) proposal was introduced in 2011, state regulators have called for a flexible supervisory approach that properly accommodates the portfolio-lending business model of community banks. CSBS has longstanding policy that supports both regulatory and legislative efforts to grant QM status to loans held in portfolio by community banks. Most recently, CSBS supported H.R. 2673, the "Portfolio Lending and Mortgage Access Act," which would have granted QM status to all loans held in portfolio.

CSBS publically voiced this position in June 2013 testimony before the Financial Institutions and Consumer Credit Subcommittee of the House Financial Services Committee. Past CSBS Chairman Charles Vice, from Kentucky, testified on the perils of one-size-fits all regulations and emphasized the importance of portfolio lending for the community bank business model. He also noted that banks have been forced to make significant operational changes to comply with the ATR and QM rules.[1]

[1] Vice, Charles. "The Ability-to-Repay and Qualified Mortgage Standard Final Rule." U.S. House of Representatives: Committee on Financial Services. June, 18, 2013. Available at: http://www.csbs.org/legislative/testimony/Documents/FinalTestimonyofCharlesViceforJune182013FinancialInstitutionsSubcommitteeHearing.pdf.

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The CFPB's proposal correctly acknowledges that portfolio lenders have strong incentives to consider a borrower's ability to repay a loan. Raising the small creditor origination limit from 500 to 2,000 loans, and more importantly, excluding loans originated and held in portfolio from this threshold, will provide effective and significant regulatory relief for community bank portfolio lenders.

Rural Definition

The CFPB's proposal correctly recognizes that its original approach to defining "rural" under § 1026.35(b)(2)(iv)(A) was too narrow and did not adequately serve the intended purpose of increasing credit in rural areas. For example, many rural and non-rural areas may exist in a single county. Therefore, labelling an entire county as either rural or non-rural paints with too broad of a brush. State regulators have witnessed community banks in truly rural areas denied this rural designation due to a faulty designation process.

CSBS supports both regulatory and legislative efforts to apply a more flexible, commonsense approach to defining rural areas. Recently, CSBS publically supported H.R. 2672, the Helping Expand Lending Practices in Rural Communities Act of 2014. Allowing local stakeholders to petition the CFPB for an area to be considered rural would lead to better, more appropriate outcomes for borrowers and institutions. Importantly, the petition process is not limited to a county or other fixed geographic designation. By permitting the petitioner to determine the area for consideration, the amendment allows those closest to an area to engage with the CFPB on appropriate designations.

Getting the rural designation process right is critical for borrowers and lenders. Many rural consumers depend on balloon loans to finance their homes, and the ability for community banks to offer responsibly underwritten balloon loans and benefit from escrow account flexibility are important components of this proposal. While balloon loans in the originate-to-distribute model were problematic, balloon loans held in portfolio by community banks are an effective method of serving a diverse array of borrowers. The proposed changes to the rural definition should provide more community bank lenders the opportunity to make balloon loans, and in turn foster home ownership in areas with limited access to credit.

Reducing Regulatory Burden by Adopting a Framework to Define Community Banks

As a broad policy initiative, state regulators have called upon Congress to develop a framework for defining a community bank based on both quantitative and qualitative factors. Meaningful community bank regulatory relief is best achieved through a holistic approach that uses both quantitative and qualitative factors to define which institutions are community banks. While bright line quantitative thresholds such as those set out in this proposal are useful aids in identifying community institutions, they should not be the sole criteria for deciding regulatory relief.

In the context of the QM rules, a community bank definition would give the CFPB a clear path to providing more significant community bank regulatory relief. For example, the CFPB could choose to grant QM status to all loans held in portfolio to statutorily defined community banks, providing more meaningful relief to lenders with assets exceeding $2 billion that would otherwise be widely regarded as community banking institutions. It would also simplify the rulemaking process by eliminating the need for complex and prescriptive regulatory relief measures that are often inconsistent across banking agencies. Community banks would also benefit greatly from this simplistic, common sense approach that accommodates their unique business model.

CONCLUSION

State regulators appreciate the positive changes in the CFPB's proposal, but believe there is still a need for regulatory and legislative action to ensure we have a right-sized and appropriate regulatory framework that allows community banks to meet the needs of their local communities. Efforts by the CFPB to reduce the compliance burdens on small creditors will allow for a more flexible approach to underwriting loans and will properly align the interests of the consumer and portfolio lenders.

The CFPB should continue to closely monitor the implications of the ATR and QM rules to ensure that regulations do not impede smaller portfolio lenders and unintentionally push small creditors out of the home mortgage business altogether.

State regulators look forward to continued engagement with the CFPB on this issue.

Sincerely,

John W. Ryan
President & CEO