Rishel Consulting Group is a nationwide consultancy to those lenders engaged in the purchase money financing of manufactured homes on a chattel basis. Chattel financing, unlike mortgage financing, is secured only by the state issued title for residences that are, in actuality, non-motorized vehicles which can be moved and relocated as the owner desires.

Rishel Consulting Group (RCG) appreciates the opportunity to submit comments in response to the Conference of State Bank Supervisor's MSR Task Force's (TF) *Proposed Regulatory Prudential Standards for Non-Bank Mortgage Servicers* that were issued on March 25, 2015. RCG is concerned that individual states may mistakenly apply the same proposed standards to non-depository lenders who originate and service manufactured home loans made as non-real estate, or chattel loans. Such an application would proved disastrous to those providing this type of loan, and as a consequence, to the entire manufactured housing industry and to the consumers who already own and occupy manufactured homes sited on land the consumer does not own.

Our comments will provide background on chattel lending as it relates to the purchase of manufactured homes and its relationship to the manufactured housing industry, and the consumers who may chose, or have already chosen, to purchase and occupy a manufactured home as their residence. Once there is a common understanding of what it is and what it cannot be, we will share our concerns and make recommendations for solving the problem.

Chattel Lending as it Relates to Financing Purchases of Manufactured Homes

The financing of manufactured homes poses unique problems for lenders, and, as a consequence, for the consumers who wish to purchase a manufactured home as a lower cost alternative to a site built home. While some manufactured homes are attached to real estate by means of a permanent foundation, many more are not[1], and the collateral with which to secure the loan is limited to a title lien in the same way motorized vehicle loans are secured. In addition, these homes are mobile and can be moved from location to another and often are during the life of the home.

Unlike the traditional mortgage market for site built homes, most of the lenders providing chattel financing for manufactured homes are quite small in size and volume. The CFPB erroneously reported in their recent white paper, *Manufactured Housing Consumer Finance in the United States* that 52% of the chattel loans made were made by five organizations.[2] The CFPB white paper was incorrect because they based their data on HMDA reporting, which the great majority of lenders have not been required to submit under the small lender rules. In reality, RCG estimates those identified five organizations account for only about 20% of the chattel loans made nationally[3]. In reality, the vast majority of chattel loans being made to fund the purchase of a manufactured home are being made by very small lenders.

Unlike the entities visualized by the TF, the entities making the majority of these chattel loans have not "grown dramatically in size, complexity", but they are nevertheless, "important" to the manufactured housing industry, and ultimately, the consumers who choose to purchase and reside in a manufactured home that is sited on land they do not own. Also, for those entities engaged in such lending, the regulatory demands have grown substantially since the inception of the SAFE Act and the Dodd Frank Act which created the CFPB that has substantial regulatory control over their operations. In addition, in responding to SAFE Act requirements, many states have changed the licensing requirements for those lenders so engaged which has added considerable layers of regulatory oversight of such lenders and some have already chosen to stop their lending activities.

The result is impacting not only the lenders, but also the whole of the manufactured housing industry as more and more sources of such loans disappear under the ever-increasing regulatory burden. This lack of financing is also having a severe impact both on those consumers wishing to purchase a manufactured home, and on the existing manufactured homeowners who find their homes diminishing in value because subsequent buyers cannot find the financing to buy existing homes that are for sale.

To fully understand the problems of any excessive regulatory burden, it is necessary to consider just how small the majority of lenders are and how and why they currently exist.

When interest rates were constrained by regulatory fiat by the CFPB, the larger lenders found it harder and harder to make lower dollar loans and still make a profit, so they withdrew from smaller dollar lending or constrained the terms and conditions, including credit standards. Unfortunately, the larger market for chattel lending on manufactured homes is based on making loans to consumers who want to purchase some other consumer's home. Many of these homes are older, and often "fixer-uppers" which translates into even lower purchase prices, which means less money needs to be borrowed. Base on customer and client supplied data, RCG estimates the national average amount to borrow is under $30,000 which necessitates interest rates far higher than can be charged under "rebuttable presumption".

Most of the smaller lenders are, in fact, a captive finance company that exists to finance customers or prospective tenants of a related retail or land lease community operation. They can, at least currently, make many loans that the larger "outside" non-depository lenders cannot because they are often willing to make loans that simply break even in order to service the related company.

In defining small, some are one-person operations with the same person often also the owner operator of the related operation where all the monies being loaned are from personal accumulation. Others may have one or two full time personnel dedicated to the lending operation with the senior management being one of the owners or partners in the related operation. According to RCG data, the average captive finance operation has three full time employees to originate and service the loans from start to finish. RCG's largest client has 22 full-time and 6 part-time employees.

There are, based on RCG extrapolations, about 20,000 small lenders making chattel loans for the purchase of manufactured homes currently in the United States.

Proposed Capital Requirements

First, RCG believes requiring a non-depository that uses no government, or government backed funds, nor any ABS or any other Wall Street financing as a source of funds to establish a mandatory capital requirement, make no sense if the goal is to protect either the investors or the consumers. The vast majority of these operations are either using their own capital or the capital of the ownership with which to fund loans. Unlike depositories, if money is lost in some manner, it is money that belongs to ownership in the first place.

Second, most of these operations cannot meet the proposed capital requirements. They would simply have to wind down their operations. Even if the operation could meet the requirements, it is likely they would also wind down their operation, as they could not afford the burden of doing so as their interest margins are too slim.

It is RCG's position, that the proposed capital requirements serve no useful purpose, and that the imposition of such would collapse the huge majority of the chattel lending now taking place. That event would certainly harm consumers as well as those who have chosen to invest in, or lend to land lease communities, manufacturers, and many other businesses in the manufactured housing industry. It would also eliminate thousands of jobs as well as rob consumers of access to lower cost affordable housing that is free of government subsidy.

Service and Transfer of Service

There is no ready market for selling or transferring servicing rights of chattel loans collateralized with manufactured homes. The great majority of loans originated by small chattel lenders are retained throughout the life of the loan. Concerns over transferring servicing rights are unwarranted because such transfer is very rare, as is the growth concern addressed in the *Proposed Regulatory Prudential Standards for Non-Bank Mortgage Servicers* in referencing the FSOC *Annual Report*, May 2014.

Risk Management

Unlike mortgage originators and servicers who earn much of their income from fees, the great majority of chattel lenders earn income only from the profits of the loans they make and service. They have a vested interest in minimizing risks without regulatory prompting.

Data Standards

RCG clients are already voluntarily exceeding the standards set forth in Reg. X, because it is their best interests to do so.

Data Protection

Again, chattel lenders are very small in relation to mortgage operators. Many of these operators have no IT system whatsoever as they are keeping written records and they have a number of reminder safeguards in place as part of their written policies and procedures to make sure that their customer's NPI is properly protected. Given the FTC has a standard in place to cover this issue, RCG cannot understand why new and additional regulations and regulators are necessary to protect the public in these areas, but can see additional cost and burdens for these small lenders.

Questions for Public Comment

1. *Should all non-bank mortgage servicers be required to have a full financial statement audit conducted by an independent certified public accountant?*

Due to the deleterious impact that the *Proposed Regulatory Prudential Standards for Non-Bank Mortgage Servicers* would have on the vast majority of chattel lenders making loans for manufactured homes, Rishel Consulting Group respectfully recommends that chattel lending be recognized as a different form of lending from real estate lending, and be specifically excluded in writing in any recommendations made to the various states.

Thank you for your time and consideration of the comments we have made to you.

Respectfully submitted,

Kenneth Rishel
Managing Partner
Rishel Consulting Group

---

[1] The CFPB estimates that over 38% of manufactured homes are located in land lease communities, but that number is deceptive, and perhaps based on information too limited to provide accurate numbers. RCG estimates that over 60% of manufactured homes are sited on land not owned by the owner of the manufactured home, when single site rentals are included in that number. In addition, many states do not license manufactured housing communities and in some states, like Illinois, the state only has licensing authority over approximately 50% of the communities, making government tracking difficult at best.

[2] One lender has since withdrawn from the market citing excessive regulatory issues.

[3] Based on a comparison of publicly available information from HMDA reports with data supplied to RCG by both clients and non clients engaged in originating and servicing chattel loans made to facilitate the purchase of manufactured homes by consumers. In states where such data was available, transactional data was also factored into the equation.