



SINCE 1902

CONFERENCE OF STATE BANK SUPERVISORS

March 26, 2013

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, D.C. 20552

Dear Director Cordray,

As the Consumer Financial Protection Bureau (“CFPB”) prepares to implement balloon qualified mortgage and escrow requirements for rural creditors, the Conference of State Bank Supervisors (“CSBS”) would like to take the opportunity to suggest an additional procedural mechanism for the CFPB to utilize when determining whether an area should be defined as “rural.” To mediate the inconsistencies inherent in a nationwide rural classification system, CSBS recommends adopting a petition process whereby interested parties can petition the CFPB to make a determination that a specified and bounded area be considered rural for the purposes of Truth in Lending rural requirements.

**COUNTY DESIGNATIONS REQUIRE A FLEXIBLE RURAL DESIGNATION ALTERNATIVE**

Practically speaking, there is no single good manner to define “rural” in a country with 3,794,000 square miles and more than 300 million people. As a result, the rural designation will not be applied to areas inherently rural because states and county sizes vary significantly. For example, the third largest county in the United States, Nye County Nevada, has only 43,946 people over 18,159 square miles, or 2.42 persons per square mile. Due to its proximity to Las Vegas, Nye County is still considered a core county under the Urban Influence Code, thereby preventing it from being defined as rural for Truth in Lending purposes. This is evidenced by the fact that Nye is the site of Yucca Mountain, the Department of Energy’s original proposed site for storing spent nuclear fuel because of its remoteness among other characteristics.

The variance in rural definitions stems beyond the Urban Influence Code. The United States Department of Agriculture Economic Research Service can generate nine different definitions of “rural” depending on land boundaries and population thresholds. This creates a myriad of “rural” possibilities, from Census Places with a population less than 2,500 people, to a definition based on Rural-Urban Commuting Areas. While these options do not use counties as boundaries, it is easy to see why the CFPB would use a metric that relies on counties – the Urban Influence Code – as the applicable land boundary. Every house must be in a county, which is an easily quantifiable area. However, the population of that county may vary significantly, as might the Urban Influence Code classification because of the surrounding populations.

To mediate these inconsistencies, a process should exist whereby an interested party could petition the CFPB for a county to be considered rural. Specified criteria could be required, such as:

- Census Places data
- Census Urban Area data
- OMB Nonmetro County designation
- Rural-Urban Commuting Area data
- USDA Business and Industry ineligible location data
- USDA Rural Housing program criteria
- Population Density
- Population per square mile

Considering the changing dynamics of population, it might be logical to have open submission periods for such a process, whereby submitted data can be compared so the results can be consistent for all lenders. This would also be logical given Urban Influence Codes are subject to change.

When definitions affect credit availability, there should be some opportunity to submit a case to the defining body arguing why an area should be considered the type of area excepted for responsible balloon loan origination. CSBS would be happy to assist in the streamlining of such a process and commits to supporting any effort by the CFPB to mitigate the rural definition issue.

#### **BALLOON LOANS ARE A CRUCIAL CREDIT PRODUCT FOR COMMUNITY BANKS**

As a policy matter, CSBS believes portfolio lending aligns the interests of consumers and lenders, warranting a regulatory framework that encourages more originate-to-hold lending. CSBS believes the rural requirement for balloon qualified mortgages and escrow will often limit this type of responsible credit origination. However, CSBS recognizes the CFPB has limited options under the statute, further supporting the petition process outlined above.

Balloon loans held in portfolio give consumers significant interest rate flexibility. Consumers will refinance balloon loans regularly when interest rates are attractive, and most community banks provide this service without fees. Banks are able to provide this service better with balloon loans than adjustable-rate mortgages because the terms are simpler. Indeed, system capabilities often prevent community banks from servicing ARMs. Further, current funding mechanisms make it easier for small creditors to match funding for balloon loans than adjustable rate mortgages, making this form of credit cheaper for the consumer.

Community banks often originate balloon products and hold the mortgage on their books, refinancing and satisfying customer needs on an ongoing basis. Community banks also originate mortgages based on cost structures that do not include escrow services, working with the borrower to make sure taxes, insurance, and other required payments are made in a timely

manner. These considerations are size based, not population based, and rural requirements will have a significant effect on the responsible mortgage products offered in many states. While we appreciate the final rural definition is much broader than the definition proposed, there may be opportunity to accommodate certain areas where this credit should be available despite Urban Influence Code classifications.

**THE MARKET EFFECTS OF NEW RURAL DESIGNATIONS WILL BE NEGLIGIBLE**

By definition, the balloon qualified mortgage and escrow requirements are local in nature. The mortgages must be held on balance sheet by small creditors in specified areas. Accordingly, there can be no meaningful impact on the broader credit market by having a rural petition process for the balloon qualified mortgage and escrow requirements.

As the CFPB continues to implement its mortgage rules, CSBS stands ready to help in the process as it relates to state and local areas.

Thank you for your consideration,



John W. Ryan  
President & CEO

cc:

**Steven Antonakes**, Acting Deputy Director

**David Silberman**, Associate Director, Research, Markets & Regulations

**Meredith Fuchs**, Associate Director, Legal, General Counsel