

ADVOCACY SUBMITS COMMENTS ON THE CONSUMER FINANCIAL PROTECTION BUREAU'S PROPOSED RULEMAKING ON RESPA/TILA

On August 30, 2012 the Office of Advocacy of the U.S. Small Business Administration (Advocacy) submitted a comment letter to the Consumer Financial Protection Bureau (CFPB) on the proposed rule on *Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (RESPA/TILA)*. The comment focused on the proposed amendment to 12 CFR § 1026.4, which revises the test for determining the finance charge for residential mortgage loans. Advocacy reserved the right to file comments on the remainder of the proposal by November 6, 2012. A copy of Advocacy's comments can be found at www.sba.gov/advocacy.

- On August 23, 2012, the Consumer Financial Protection Bureau (CFPB) published in the *Federal Register* a proposed rule to amend Regulation X, the Real Estate Settlement Procedures Act (RESPA), and Regulation Z, the Truth in Lending Act (TILA), to establish new disclosure requirements and forms in Regulation Z for most closed-end consumer credit transactions secured by real property. In addition to combining the existing disclosure requirements and implementing new requirements in the Dodd-Frank Act, the proposed rule provides extensive guidance regarding compliance with those requirements.
- The CFPB is proposing to amend section 1026.4 to replace the current “some fees in, some fees out” approach to the finance charge with a simpler, more inclusive test based on the general definition of finance charge in TILA section 106(a). Under proposed section 1026.4, the current exclusions from the finance charge would be largely eliminated for closed-end transactions secured by real property or a dwelling.
- The proposed rule was posted on Regulations.gov on July 9, 2012. However, the proposal was not published in the *Federal Register* until August 23, 2012. Advocacy's letter asserted that 10 business days to review and develop a public comment was inadequate.
- Advocacy expressed concern that the proposed revisions could result in small community banks exiting the marketplace, leading to less competition and higher prices for consumers.
- This rule was the subject of a Small Business Regulatory Enforcement Fairness Act panel that convened on February 21, 2012. In light of the information that the CFPB gleaned from the small banking industry representatives, Advocacy suggested that the CFPB consider alternatives to these proposed changes.

For more information, visit Advocacy's webpage at www.sba.gov/advocacy or contact Jennifer Smith at 202-205-6943.