

## ***ADVOCACY SUBMITS COMMENTS ON THE CONSUMER FINANCIAL PROTECTION BUREAU'S PROPOSED RULEMAKING ON INTEGRATED MORTGAGE DISCLOSURES***

On November 6, 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 ("RESPA" or Regulation X) and the Truth in Lending Act ("TILA" or Regulation Z)*. Advocacy incorporated its August 2012 comment on the proposed amendment to 12 CFR § 1026.4 by reference. A copy of Advocacy's comments can be found at [www.sba.gov/advocacy](http://www.sba.gov/advocacy).

- The Dodd-Frank Act requires the CFPB 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 proposed recordkeeping provision requires creditors to maintain electronic, machine-readable electronic records of the Loan Estimates for 3 years and the Closing Disclosures for 5 years. It would be expensive for small entities. Advocacy encouraged the CFPB to exempt small entities from this requirement.
- The proposal requires that loan estimates be provided to consumers within 3 business days after receipt of the consumer's application, to replace the early TILA disclosure and RESPA good faith estimate (GFE). It also requires that the Closing Disclosure be provided at least 3 business days prior to consummation, to replace the final TILA disclosure & RESPA settlement statement. Advocacy encourages the CFPB to provide clear guidance to small entities as well as a minimum of 18 months to comply with the requirements for the integrated disclosure forms.
- The current regulations require the following information for an "application": 1) Borrower's name; 2) monthly income; 3) social security number; 4) property address; 5) an estimate of the value of the property; 6) loan amount sought; and 7) any information deemed necessary by the lender. The proposal removes the provision of "any information deemed necessary by the lender" from the definition of "application." The CFPB conducted a small business advocacy review panel in accordance with Section 609 of the Regulatory Flexibility Act; some small entity representatives (SERs) stated that

eliminating the “any information deemed necessary by the lender” provision was not a concern while others stated that removing the seventh item would create uncertainty. Advocacy encouraged the CFPB not to eliminate that provision. The SERs also stated that the address requirement was problematic. Advocacy encouraged the CFPB to strike it from the definition of application.

- The proposal revises current rules regarding the circumstances in which a consumer may be charged more at closing for settlement services than the creditor estimated in the disclosure provided to the consumer three business days after application. The proposal applies the zero tolerance category to a larger range of charges, including fees charged by an affiliate of the creditor and charges for services for which the creditor does not permit the consumer to shop. Zero percent tolerances could potentially reduce or eliminate independent service providers, many of which are small. Advocacy encouraged the CFPB to maintain the status quo of ten percent tolerances.
- The proposal also has a three-day presumption that a document was received. For example, if a document is mailed by first-class mail, it is presumed that the consumer has received it within three days. This applies even to documents that are emailed to the consumer unless the business can prove that the document was received faster than three days. Advocacy encouraged the CFPB to develop a rule that recognizes the instantaneous methods of delivery and provide clear guidance on what forms of proof are adequate for complying with the rule.
- In the provisions of the proposal that require a certain number of days for notice, the CFPB considers Saturday a business day. Advocacy asserted that including Saturday in the definition of a business day will cause confusion for consumers and small businesses. Advocacy encouraged the CFPB not to include Saturday as a business day.

For more information, visit Advocacy’s webpage at [www.sba.gov/advocacy](http://www.sba.gov/advocacy) or contact Jennifer Smith at 202-205-6943.