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March 4, 2013

The Honorable Tim Johnson
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Bureau of Consumer Financial Protection: Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z)*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Bureau of Consumer Financial Protection (Bureau), entitled “Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z)” (RIN: 3170-AA14). We received the rule on February 15, 2013. It was published in the *Federal Register* as a final rule; official interpretations on February 14, 2013. 78 Fed. Reg. 10,902.

The final rule amends Regulation Z, which implements the Truth in Lending Act and the official interpretation to the regulation, which interprets the requirements of Regulation Z. This final rule implements provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) regarding mortgage loan servicing. Specifically, this final rule implements Dodd-Frank Act sections addressing initial rate adjustment notices for adjustable-rate mortgages, periodic statements for residential mortgage loans, prompt crediting of mortgage payments, and responses to requests for payoff amounts. This final rule also amends current rules governing the scope, timing, content, and format of disclosures to consumers regarding the interest rate adjustments of their variable-rate transactions. Concurrently with the issuance of this final rule, the Bureau amended Regulation X, which contains companion rules implementing amendments to the Real Estate

Settlement Procedures Act of 1974. The rule has an effective date of January 10, 2014.

Enclosed is our assessment of the Bureau's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Bureau complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Lea Mosena
Attorney, Legal Division
Consumer Financial Protection Bureau

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
BUREAU OF CONSUMER FINANCIAL PROTECTION
ENTITLED
"MORTGAGE SERVICING RULES UNDER THE
TRUTH IN LENDING ACT (REGULATION Z)"
(RIN: 3170-AA14)

(i) Cost-benefit analysis

The Bureau performed a cost-benefit analysis as required by section 1022(b)(2)(A) of the Dodd-Frank Act which requires that the Bureau consider potential benefits and costs to consumers and covered persons resulting from a regulation such as this rule, including the potential reduction of access by consumers to consumer financial products or services resulting from the rule. The Bureau states, however, that the potential benefits and costs and the impacts are not generally susceptible to particularized or definitive calculation in connection with this rule. Further, the incidence and scope of such potential benefits and costs, and such impacts, will be influenced very substantially by economic cycles, market developments, and business and consumer choices, which are substantially independent from adoption of the rule.

The Bureau stated that the potential benefits of the rule on consumers and covered persons (e.g., changes in the format, content, and timing of disclosure for adjustable-rate mortgages, new initial interest rate adjustment notice for adjustable-rate mortgages, prompt crediting of payments and response to requests for payoff amounts, and new periodic statement disclosure for certain mortgages) are especially hard to quantify. The Bureau stated that based on the data limitations, the analysis provided a qualitative discussion of the benefits, costs, and impacts of the final rule, and used general economic principles to provide insight into the benefits, costs, and impacts. Where possible, the Bureau has made quantitative estimates based on these principles and the data that are available. The Bureau stated that it believes that the rule as adopted faithfully implements the purposes and objectives of Congress in the statute, and has concluded that the rule is appropriate as an implementation of the Dodd-Frank Act.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Bureau did not certify that the rule would not have a significant economic impact on a substantial number of small entities. Thus, the Bureau included the information required for its final regulatory flexibility analysis, and convened a Small

Business Review panel to obtain advice and recommendations of representatives of the regulated small entities and solicited comment on alternative means of compliance for small servicers. Several recommendations were incorporated into the proposed rule. For example, the rule exempts small servicers that service 5,000 mortgage loans or less, all of which the servicer or an affiliate owns or originated, from most of the new periodic statement requirement in 12 C.F.R. 1026.71.

Using the 2007 Economic Census, the Bureau estimated that there are 3,779 small entities affected by the rule in the category of commercial banks and savings institutions. Of those, 3,714 are small entities engaged in mortgage loan servicing. In the category of credit unions there are 6,079, of those 3,951 are small entities engaged in mortgage loan servicing. There are 5,152 in the category of firms providing real estate credit and 5,319 in the category of firms engaged in other activities related to credit intermediation (including loan servicing), of these two categories, 800 are small entities engaged in mortgage loan servicing. The Bureau was not able to separately estimate the number of non-profits and small non-profits engaged in mortgage loan servicing. The Bureau estimated that the exemption of small servicers from the new periodic disclosure statement, will apply to all but one insured deposit or credit union that meets the Small Business Administration asset threshold. Further, the Bureau estimated, based on limited data available, that the implication is that 768 non-depository servicers would service 5,000 loans or less and qualify for the exemption, while all but 4 percent of 800, or 32 would not qualify for the exemption.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Unfunded Mandates Reform Act does not apply to independent regulatory agencies, such as the Bureau of Consumer Financial Protection.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Bureau issued a proposed rule on August 10, 2012, which was published in the *Federal Register* on September 17, 2012. 77 Fed. Reg. 57,317. The Bureau received approximately 300 comments on the proposed servicing rules from individual consumers, consumer advocates, community banks, large bank holding companies, secondary market participants, credit unions, non-bank servicers, state and national trade associations for financial institutions in the mortgage business, local and national community groups, federal and state regulators, academics, and others. The Bureau responded to those comments in the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collection requirements under the Paperwork Reduction Act. Using the Bureau's burden estimation methodology, the total estimated burden under the changes to Regulation Z for the roughly 12,643 institutions, including Bureau respondents, that are estimated to service consumer mortgages subject to the rule would be approximately 25,000 one-time burden hours and 65,000 ongoing burden hours per year. The aggregate estimates of total burdens presented in the final rule are based on estimates averaged across respondents. The Bureau expects that the amount of time required to implement each of the proposed changes for a given institution may vary based on the size, complexity, and practices of the respondent.

Statutory authorization for the rule

The final rule is authorized by the Dodd-Frank Wall Street Reform and Consumer Protection Act. Pub. L. No. 111-203, 124 Stat. 1376 (2010), as it relates to the implementation of the Truth in Lending Act (TILA) regarding mortgage servicing requirements; see 12 U.S.C. 2601; 2603–2605, 2607, 2609, 2617, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 et seq.

Executive Order No. 12,866 (Regulatory Planning and Review)

The Executive Order does not apply to independent regulatory agencies, such as the Bureau of Consumer Financial Protection.

Executive Order No. 13,132 (Federalism)

The Executive Order does not apply to independent regulatory agencies, such as the Bureau of Consumer Financial Protection.