May 22, 2013

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Loan Originator Compensation Requirements under the Truth In Lending Act (Regulation Z); Prohibition on Financing Credit Insurance Premiums; Delay of Effective Date; Docket No. CFPB-2013-0013 or RIN 3170-AA37

Dear Ms. Jackson:

The undersigned associations (the "Associations") support the proposal by the Consumer Financial Protection Bureau (the "Bureau") to delay the June 1st effective date for section 1026.36(i) in the Loan Originator Compensation Requirements rule (the "Final Rule"), which prohibits the financing of single-premium credit insurance offered in connection with residential mortgages.[1] The Associations represent companies that either sell or underwrite these products.

Delay in the Effective Date

The June 1st effective date originally was proposed because the Bureau believed section 1026.36(i) did not present a significant implementation burden for affected institutions. Indeed, in our comment letters on the proposed rule,[2] the Associations expressed no concern with the timing of the effective date, or even the substance of section 1026.36(i), because the financing of single-premium credit insurance policies in connection with residential mortgages has long since ceased to be a wide-spread practice in the industry. Such insurance policies started to disappear

[1] Loan Originator Compensation Requirements under the Truth in Lending Act (Regulation Z); Final Rule, 78 Fed. Reg. 11,280 (Feb. 15, 2013) (to be codified at 12 C.F.R. pt. 1026).
[2] Truth in Lending Act (Regulation Z); Loan Originator Compensation, 77 Fed. Reg. 55,272 (proposed Sep. 7, 2012) (to be codified at 12 C.F.R. pt. 1026).

over a decade ago when Freddie Mac and Fannie Mae decided not to purchase loans on which single-premium credit insurance was sold.[3]

Our perception of the effective date and the substance of section 1026.36(i) changed when we read the preamble to the Final Rule.[4] The Associations were surprised to read that the Bureau had interpreted section 1026.31(i) to prohibit other premium structures, including monthly paid programs. This interpretation, a response to a comment letter with no opportunity for others to comment, placed a legal cloud over such other products and triggered an immediate, and significant, compliance burden for the industry. Monthly paid programs are commonly sold by banks and other financial services firms, and it would be challenging, if not impossible, to unwind those programs by the June 1st effective date.

Terminating those programs by June 1st also would impose a burden on many consumers, especially low- and moderate-income borrowers who rely upon monthly paid credit insurance to protect what is often their most valuable investment – their home. For example, many mortgage borrowers select fixed-rate loans because they want level monthly payments, and monthly level premiums on credit protection products give a similar benefit to consumers, helping them understand and manage their household budget. If the Bureau does not delay the effective date to resolve this legal cloud, many consumers will be harmed.

Monthly Paid Programs

The Bureau has indicated that when it proposes a new effective date for section 1026.36(i), it also will seek public comment on the applicability of the prohibition to transactions in which credit insurance premiums are charged periodically. The Associations appreciate the Bureau's willingness to review the interpretation of such products that was set forth in the preamble to the Final Rule. The Associations, and other interested stakeholders, do not believe such products constitute a form of financing that falls within the ambit of the prohibition. For example, level premiums do not increase the principal or interest due on a mortgage loan. The premium for insurance coverage is separately calculated, charged, and paid for, on a monthly basis. The fact that the premium is the same each month does not mean it is "financed." More importantly, consumers value this product since it accommodates predictable monthly payments.

New Effective Date

The Associations believe that a delay in the effective date of section 1026.36(i) is permissible pursuant to section 105(a) of the Truth in Lending Act and sections 1022(b)(1) and 1400(c) of the Dodd-Frank Act. Accordingly, we propose that the new effective date for section 1026.36(i) should be January 10, 2014. This would align the prohibition on the financing of single premium credit insurance with other provisions in the Final Rule and other mortgage rules issued by the Bureau. On the other hand, should the Bureau decide in a new rulemaking that the prohibition applies to other premium structures, including monthly paid programs, the industry

[3] Freddie Mac Industry Letter dated April 21, 2000 and Fannie Mae announcement on New Loan Guidelines to Combat Predatory Lending Practices dated April 2000.
[4] 78 Fed. Reg. at 11,388-89.

would need additional time to comply. In which case, we ask that the effective date be twelve months after the rule is final.

The Associations thank the Bureau for recognizing the ambiguity created by the language in the Final Rule's preamble and proposing a delay in the effective date so that this can be resolved. We look forward to working with the Bureau on this matter going forward.

Sincerely,

American Bankers Insurance Association
Consumer Bankers Association
The Financial Services Roundtable
Housing Policy Council
Independent Community Bankers of America