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National Association of Federally-Insured Credit Unions

March 29, 2023

Comment Intake – ICBA Trial Disclosure Application
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

**RE: Request for Comment Regarding the Independent Community Banker’s
Application for a Trial Disclosure Waiver Template (Docket No. CFPB-2023-
0016)**

Dear Sir or Madam:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the Consumer Financial Protection Bureau’s (Bureau or CFPB) request for comment (RFC) regarding the Independent Community Bankers of America’s (ICBA) application for a trial disclosure waiver template. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 135 million consumers with personal and small business financial service products. NAFCU appreciates the time and effort the ICBA put into this trial disclosure application and supports a single-close construction-to-permanent loan option. NAFCU supports this trial disclosure application but recommends that the title of all documents be specific and consistently align with their purpose. Additionally, NAFCU recommends that the projected payment calculation be required for all years the total monthly payment is expected to change.

General Comments

In 2019 the Bureau revised its Policy to Encourage Trial Disclosure Programs (TDP Policy) and created the Trial Disclosure Sandbox, which allows entities seeking to improve consumer disclosures to conduct in-market testing of alternative disclosures for a limited time with the CFPB’s permission.¹ In February 2022, the CFPB reformed its rulemaking policy by also allowing members of the public to petition the CFPB for action.² NAFCU appreciates the opportunity for stakeholders to submit petitions for CFPB action when necessary.

Under the Bureau’s TDP Policy, the ICBA submitted an application that aims to increase the availability of affordable single-close construction-to-permanent loans by proposing an

¹ Policy to Encourage Trial Disclosure Programs, Consumer Financial Protection Bureau. September 13, 2019. <https://www.federalregister.gov/d/2019-19761>.

² Consumer Financial Protection Bureau Launches New Way for the Public to Petition the Agency for Action, Consumer Financial Protection Bureau. February 16, 2022. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-launches-new-way-for-the-public-to-petition-the-agency-for-action/>.

alternative Loan Estimate Disclosure (LE) and Closing Disclosure (CD) that the ICBA believes will more fully disclose all the various components of these types of loans.³ If issued by the Bureau, the proposed Trial Disclosure Waiver Template will serve as the foundation for applications from lenders for a Trial Disclosure Waiver.

NAFCU generally agrees with the ICBA that single-close construction-to-permanent loans reduce closing costs and that the current disclosure requirements do not capture the entirety of the regime, which leaves consumers inadequately informed and in turn makes it more difficult for entities to provide these loans. However, some financial institutions are able to successfully provide the consumer with two separate closings based on temporary financing and comply with the current disclosures without increasing costs for the consumer. However, NAFCU agrees that the more information a lender can provide the consumer with, the better understanding the consumer will have. Therefore, NAFCU supports the inclusion of bullet points to explain why an amount can increase after closing. This will be helpful for consumers to estimate costs and avoid a surprise increase in payment. For both the LE and CD to align with each other, NAFCU also recommends that the “Loan Information” section of the CD state the loan term for the construction phase “to” the loan term for the permanent phase. This is a change that was proposed for the LE, and the two documents should state the information as succinctly as possible to provide greater clarity.

To avoid consumer confusion, documents should be given names that clearly reflect their purpose. For example, the conversion notice should be named “Permanent Loan Conversion Notice” to provide greater clarity of what part of the loan the notice applies to. The addition of “Permanent Loan” in the title will ensure that the borrower is aware that what is included in this notice applies to their permanent loan. It goes without saying that being more specific provides greater clarity than broad statements and titles.

NAFCU further recommends that the projected payment section of the CD include the payment calculation as currently required. Currently, lenders must list the estimated monthly payment for each year. Additionally, they are required to include a new calculation if a change in payment is expected. The ICBA’s proposed CD only lists payment calculations for the construction and permanent loans. This section should contain more detail. For example, if a consumer is paying mortgage insurance for years 2-8 and not years 8-30, there should be two additional columns for those years’ payment calculations as the estimated total monthly payment will change based on that factor.

Conclusion

NAFCU appreciates the opportunity to comment on the Bureau’s RFC and supports the ICBA’s application for a trial disclosure waiver template but recommends that the LE and CD state the

³ ICBA’s Trial Disclosure Sandbox Application. April 28, 2022.
https://files.consumerfinance.gov/f/documents/cfpb_icba-application_2023-02.pdf.

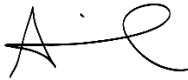
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information as succinctly as possible, the titles remain consistent among all documents, and a new payment calculation column is included for every year there is an estimated change in payment. Should you have any questions or require additional information, please do not hesitate to contact me at (703) 842-2268 or amoore@nafcu.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Moore', with a stylized flourish at the end.

Aminah Moore

Senior Regulatory Affairs Counsel