

January 24, 2012

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1801 L Street, NW
Washington, DC 20036

Dear Mr. Cordray:

On behalf of the undersigned small business organizations, we want to raise concerns with the Consumer Financial Protection Bureau's ("CFPB") implementation of small business provisions in the Dodd-Frank Act (P.L. 111-203). These important small business provisions provide a process for the CFPB to be mindful of the impact of new regulations on small businesses.

During passage of the Dodd-Frank Act, we supported the Snowe-Pryor amendment, which puts a process into place to require the CFPB to consider the impact of costly regulations on small businesses.¹ The Snowe-Pryor language contains two important provisions: 1) requiring the CFPB to publicly consider how rules will impact the cost of credit for small firms; and 2) requiring the CFPB to conduct Small Business Advocacy Review ("SBAR") panels on rules that will impact small businesses.

The CFPB's public consideration of how new rules will impact the cost of credit for small business is important because of the struggles small employers face to meet their credit needs. We urge the CFPB to draw a careful balance between providing consumers with added protections while at the same time making sure rules do not negatively impact the cost of credit for small businesses.

The SBAR panel process, originally enacted into law by the 1996 Small Business Regulatory Enforcement Fairness Act ("SBREFA"), lays out a procedure that is intended to minimize regulatory costs on small businesses. These panels are made up of small business representatives and are facilitated by the Small Business Administration's Office of Advocacy. SBAR panels are responsible for issuing a small business report prior the promulgation of a proposed rule. The small business report

¹ Pub. L. No. 111-203, Section 1100 G, *Small Business Fairness and Regulatory Transparency*, (July 21, 2010).

contains recommendations on alternatives that can meet the regulators' objectives while minimizing costs on small businesses.

We believe that the CFPB's first rulemaking will set the tone for how the bureau complies with SBREFA. In following CFPB's efforts to simplify mortgage closing documents, we are concerned that CFPB may be ignoring the value of SBREFA which will result in undue burden on small businesses.

After two decades of consultation by the U.S. Department of Housing and Urban Development ("HUD") and other agencies on reforms to the Real Estate Settlement Procedures Act ("RESPA"), the CFPB started work on simplifying mortgage closing documents this past May. While the effort to streamline the home buying process by reducing red tape may be a laudable goal, the CFPB has not started the SBAR process yet. The Snowe-Pryor amendment is intended to help the CFPB flush out small business-friendly proposals *early* in the process. It is unfortunate that the CFPB has worked for more than nine months on re-designing mortgage documents, narrowing down the choices for a new form, without convening a SBAR panel. This approach raises concerns with how the CFPB is approaching compliance with SBREFA and how the CFPB expects to convene SBAR panels for future rulemakings.

Working with small business trade and membership organizations early in the regulatory process will connect the CFPB with small businesses that rely on us for regulatory advice. Interaction with our members and convening SBAR panels early enough in the process for small businesses to make meaningful recommendations are essential for SBREFA to work. SBREFA, if implemented correctly, will allow for the CFPB to present small business-friendly options for comment during a full notice and comment rulemaking. This approach treats trade and membership organizations as partners that share the goal of ensuring any final regulation maximizes benefits while minimizing costs. That was the intention of the Snowe-Pryor amendment.

The undersigned small business trade and membership organizations strongly supported the Snowe-Pryor amendment in the Dodd-Frank law and we urge you to take all necessary steps to make sure the SBREFA process is properly carried out by the CFPB.

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Sincerely,

Air Conditioning Contractors of America
American Council of Engineering Companies
American Financial Services Association
American Hotel & Lodging Association
The American Institute of Architects
American Moving and Storage Association
American Supply Association
American Trucking Associations
Associated General Contractors of America
Association of Kentucky Fried Chicken Franchisees
California Coalition of Appraisal Professionals
Community Mortgage Lenders of America
Construction Industry Round Table
Consumer Data Industry Association
Financial Services Institute
Heating, Air-conditioning & Refrigeration Distributors International
Hearth, Patio & Barbecue Association
Institute for Liberty
International Franchise Association
Mason Contractors Association of America
National Automobile Dealers Association
National Association of Mortgage Brokers
National Association of the Remodeling Industry
National Association for the Self-Employed
National Association of Independent Housing Professionals
National Funeral Directors Association
National Kitchen & Bath Association
National Lumber and Building Material Dealers Association
National Precast Concrete Association
National Ready Mixed Concrete Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
New Jersey Chapter, American Guild of Appraisers

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New Jersey Professional Mortgage Originator
Petroleum Marketers Association of America
Plumbing-Heating-Cooling Contractors – National Association
Printing Industries of America
Small Business & Entrepreneurship Council
Society of American Florists
Society of Chemical Manufacturers and Affiliates
TechAmerica
Textile Rental Services Association
The Latino Coalition
The Ohio Coalition of Appraisal Professionals
Truck Renting and Leasing Association
U.S. Chamber of Commerce
Window and Door Manufacturers Association
Women Construction Owners & Executives