



Credit Union National Association

cuna.org

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Submitted via <http://www.regulations.gov>

April 17, 2012

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20006

Re: Defining Larger Participants in Certain Consumer Financial Product and Service Markets (Consumer Debt Collection; Consumer Reporting) [Docket No. CFPB–2012–0005, RIN 3170–AA00]

Dear Ms. Jackson:

This comment letter represents the views of the Credit Union National Association (CUNA) regarding the Consumer Financial Protection Bureau's (CFPB's) proposal to define "larger participants" in markets for consumer debt collection and consumer reporting. By way of background, CUNA is the largest credit union advocacy organization in this country, representing approximately 90% of our nation's 7,200 state and federal credit unions, which serve about 94.5 million members.

CUNA strongly agrees that non-depository institutions, including consumer debt collection and consumer reporting entities, should be subject to meaningful consumer protection regulation and enforcement, as contemplated by the Dodd-Frank Wall Street Reform and Consumer Protection Act. In that connection, we believe the CFPB has taken an appropriate initial step to supervise and examine certain non-depository-institutions that were not subject to meaningful consumer protection supervision prior to the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). How the agency regulates these entities will impact the entire financial services marketplace, including consumers as well as other service providers that are not characterized as "larger participants."

In light of that, we urge the CFPB to define non-depository-institution "larger participants" in a manner that provides the agency with the authority to ensure that consumers receive the same consumer protections under law from non-depository-institution financial service providers as they receive today from credit unions and other depository



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institutions. The robust consumer protection laws and regulations that apply to credit unions and depository institutions include the Fair Credit Reporting Act and the Fair Debt Collection Practices Act.

Section 1024 of the Dodd-Frank Act provides the CFPB with regulatory jurisdiction to supervise non-depository-institution mortgage originators, mortgage brokers, payday lenders, and private education lenders regardless of size, but limited this jurisdiction regarding other non-depository-institution financial services providers to “larger participants” in their respective markets. In addition, the CFPB has authority to supervise non-depository-institutions that pose risks to consumers with regard to consumer products or financial services.

Under the proposal, the CFPB would determine that a non-depository-institution entity would be a “larger participant” subject to CFPB supervision if the entity meets these thresholds: 1) for consumer debt collection: a nonbank covered person that offers or provides consumer debt collection is a “larger participant” of the consumer debt collection market if the person’s annual receipts resulting from consumer debt collection are more than \$10 million; or 2) for consumer reporting: a nonbank covered person that offers or provides consumer reporting is a “larger participant” of the consumer reporting market if the person’s annual receipts resulting from consumer reporting are more than \$7 million. The proposal also specifies that only activities directly related to the covered activity would be used in the determination.

According to the CFPB, the proposed thresholds are intended to capture the largest participants, as well as entities that have a “substantial impact,” in consumer debt collection and consumer reporting markets. The two proposed thresholds would capture a small number of firms. The proposed threshold would cover approximately 63 percent of debt collection receipts, and 94 percent of the consumer reporting market, based on aggregate annual receipts. We believe that the proposed threshold for the consumer reporting market would permit the CFPB to regulate a large proportion of consumer reporting entities that were previously not subject to meaningful federal supervision and examination. However, with respect to the debt collection market, CUNA feels that the proposed threshold should be adjusted to a figure substantially less than \$10 million. We recognize that under the Small Business Administration’s rules, a debt collection firm with annual receipts of \$7 million or less is a small business concern. CUNA recognizes that there is an increased propensity for consumers to be abused in the debt collection market compared to the consumer reporting market, and would urge the CFPB to give consideration to setting a threshold for the debt collection market which is at least equal to that proposed for the consumer reporting market.

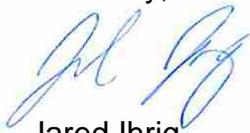
With respect to both the consumer reporting market and the consumer debt collection market thresholds, as the CFPB obtains more accurate data and feedback from consumers, we encourage the agency to revisit these thresholds, and adjust them where necessary and appropriate to identify any remaining gaps in coverage in the consumer debt collection and consumer reporting markets.

Also, while the proposal sets the “larger participant” thresholds based on annual receipts of consumer debt collection and consumer reporting entities, the CFPB should be able to use other approaches, as appropriate, such as the relative market share of participants within a local market to define “larger participants. This view is consistent with a previous comment letter we filed with the CFPB on this subject in August, 2011. Further, we think the CFPB should be able to supervise and examine other non-depository-institution entities within other consumer finance markets. In addition, consistent with Section 1024(a) of the Dodd-Frank Act, the CFPB should have appropriate flexibility to also supervise and examine other consumer finance entities that pose material risks to consumers.

Regarding the data sources to determine if an entity would meet the proposed “larger participant” thresholds, CUNA supports the use of existing public data sources, as well as data collection that is obtained directly from the non-depository entities. As the CFPB has noted, there is currently a lack of comprehensive data and related information regarding the consumer debt collection and consumer reporting markets.

Thank you for the opportunity to comment on the proposal to define “larger participants” in markets for consumer debt collection and consumer reporting. If you have any questions concerning our letter, please feel free to contact CUNA Senior Vice President and Deputy General Counsel Mary Dunn or me at (202) 508-6732.

Sincerely,



Jared Ihrig
Senior Assistant General Counsel