CSBS SINCE 1902
CONFERENCE OF STATE BANK SUPERVISORS

December 4, 2013

Rep. Jeb Hensarling
Chairman
House Financial Services Committee
2228 Rayburn House Office Building
Washington, DC 20515

Rep. Maxine Waters
Ranking Member
House Financial Services Committee
2221 Rayburn House Office Building
Washington, DC 20515-0535

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the Conference of State Bank Supervisors ("CSBS"),[1] I am writing to express CSBS's support for H.R. 2672, the CFPB Rural Designation Petition and Correction Act ("Act"). As state regulators, our members have a locally-oriented perspective on regulated entities and the communities they serve. Certain aspects of lending should not be regulated with a nationwide, broad brush approach, and must necessarily provide for local flexibility. H.R. 2672, by establishing a locally-focused petition process for the rural balloon loan Qualified Mortgage ("Balloon QM"), creates such needed flexibility.

Regulation Should Support Community Bank Portfolio Lending

State banking commissioners have devoted tremendous effort to examining the regulatory environment for community institutions. Our focus is not on the amount of regulation but on regulation that is "right-sized" to community institutions' business model. As a result of these efforts, state regulators have identified portfolio lending as a key opportunity for policymakers to ensure community banks' ability to contribute positively to the economic well-being of their local markets. This includes responsibly underwritten balloon loans, important factors in credit markets across the country.

The Consumer Financial Protection Bureau ("CFPB" or "Bureau") appropriately recognized the importance of portfolio lending with the Small Creditor QM. The Small Creditor QM is an innovative regulation that provides smaller portfolio lenders with the legal assurances necessary to meet the credit needs of their communities.[2] Further, CSBS supports the Bureau's decisions to extend the Balloon QM compliance date for two years and to explore other

[1] CSBS is the nationwide organization of banking regulators from all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. State banking regulators supervise 5,271 state-chartered depository institutions, most of which are community banks. Additionally, most state banking departments regulate a variety of non-bank financial services providers, including mortgage lenders. For more than a century, CSBS has given state supervisors a forum to provide local insight for national policymakers.
[2] See http://www.csbs.org/regulatory/policy/Documents/2013/CSBS-AARMR-ACSSS-SmallCreditorQMLetter.pdf.

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approaches to the rural designation. Moving forward, policy makers and the CFPB must ensure portfolio lending product options are available in rural areas.

The Current Rural Designation System is Based on Numbers, Not an Understanding of Local Areas

The CFPB is required to define rural or underserved areas, a prerequisite for Qualified Mortgage status for balloon loans under the Dodd-Frank Act.[3] To do so, the CFPB uses county classifications under the U.S. Department of Agriculture Urban Influence Code.[4] This formulaic approach to rural classification might be a useful starting place, but is inflexible when applied to counties with atypical population distributions or geographic boundaries. Accordingly, there needs to be a mechanism for accommodating areas that are truly rural despite Urban Influence Code classifications.

Area Designations Require a Flexible Rural Designation Alternative

Practically speaking, there is no appropriate centralized manner to define "rural" in a country with 3,794,000 square miles and more than 300 million people. As a result, areas that are clearly rural fail to meet the CFPB's definition. For example, the third largest county by area in the United States, Nye County Nevada, has only 43,946 people over 18,159 square miles, or 2.42 persons per square mile. Due to its proximity to Las Vegas, Nye County – when evaluated based on Urban Influence Codes – is not considered rural. Nye is the site of Yucca Mountain, the Department of Energy's original proposed site for storing spent nuclear fuel because of its remoteness among other characteristics, yet not considered remote for the purposes of the Balloon QM. There are many other examples in most states.[5]

To address such illogical outcomes in a locally-focused manner, H.R. 2672 creates a process where local stakeholders can petition the CFPB for a county to be considered rural despite Urban Influence Code classification. The bill then requires the CFPB to consider a broader range of criteria and inputs:

- Census rural criteria
- OMB rural criteria
- USDA rural criteria
- The State bank regulator's written opinion
- Population Density

[3] Dodd-Frank Section 1412, *codified at* 15 U.S.C. 1639c(b)(2)(E)(iv).
[4] All "non-core" nonmetro counties are designated as rural. This includes Urban Influence Codes 4, 6, 7, 9, 10, 11, and 12. For an overview of Urban Influence Codes, *see* http://www.ers.usda.gov/data-products/urban-influence-codes.aspx#.UpOa2sRDsXE.
[5] *See, e.g.,* John Ducrest, *'Rural' Mortgage Definition Another One-Size-Fits-All-Rule*, American Banker (April 15, 2013). *Available at* http://www.americanbanker.com/bankthink/rural-mortgage-definition-another-one-size-fits-all-rule-1058282-1.html.

The Act also includes an administrative process for other stakeholders to submit information for the record. This added transparency ensures all stakeholders can provide input and gives the CFPB added information for their determination.

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CSBS believes portfolio lending aligns the interests of consumers and lenders, warranting a regulatory framework that supports originate-to-hold mortgage lending. Loans held in portfolio have performed well even through the crisis, and more needs to be done to encourage this form of lending.[6] However, the CFPB's current approach to the rural requirement for the Balloon QM could run counter to this goal. Defining the nature of an area cannot be done solely by numbers in Washington, D.C. — whether an area is "rural" depends on many characteristics, most of which are inherently local. As such, a process should be in place to designate areas as rural depending on more local factors, and H.R. 2672 inserts this needed local flexibility.

CSBS appreciates the opportunity to comment on H.R. 2672. As the CFPB continues to implement its mortgage rules and Congress evaluates proposed changes, state regulators stand ready to help ensure processes are in place to properly consider the differences between local areas. When definitions matter to credit availability and product options, it is important to make sure all factors are appropriately considered.

Thank you for your consideration,

John W. Ryan
President and CEO

cc:

Representative Shelley Moore Capito
Chairman, Subcommittee on Financial Institutions and Consumer Protection
Representative Gregory Meeks
Ranking Member, Subcommittee on Financial Institutions and Consumer Protection
Representative Garland H. Barr

[6] Governor Elizabeth A. Duke at the Community Bankers symposium (November 9, 2012). "Over the last several years as mortgage delinquencies reached record levels, the serious delinquency rate of mortgages held by community banks did not go much over 4 percent . . . . In fact, over the last several years, on average, mortgages held by community banks outperformed even fixed-rate, prime loans, the best performing mortgage category. I think this statistic by itself is a strong testament to the responsible lending practices of community banks."