

June 13, 2012

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

Dear Director Cordray,

We are writing to applaud your decision to solicit additional comments on the “ability to repay” rulemaking and to request that the Bureau of Consumer Financial Protection (CFPB) use the extra time afforded in the rulemaking to conduct a Small Business Advocacy Review (SBAR) panel and publish the recommendations of the SBAR panel in conjunction with issuing the final rule.

The CFPB is required to conduct an SBAR panel when issuing rules that will significantly impact small businesses. The publication of SBAR panel recommendations prior to CFPB’s issuance of a proposed rule is a way for CFPB to understand how its regulations may impact small business. The SBAR panels ensure CFPB rulemakings are informed by that impact in a transparent manner, and they provide the public-at-large the opportunity to comment on SBAR recommendations during the broader notice and comment process.

In initiating the “ability to repay” rulemaking, the Federal Reserve Board did not conduct an SBAR panel. We recognize that CFPB was not legally required to conduct an SBAR panel since the rulemaking was transferred to the CFPB after the proposed rule stage. However, given the potentially significant impact of the “ability to repay” rule on the housing market and the Bureau’s recent notice re-opening the comment period, we believe that regulatory best practice calls for the CFPB to formally consult with small businesses through an SBAR panel. As organizations representing hundreds of thousands of small employers, we want to make sure the final “ability to repay” rule mitigates any undue adverse impacts on small businesses as the law intends.

We are sensitive to your time constraints and we suggest you conduct an SBAR panel focused specifically on the issues outlined in your May 31<sup>st</sup> announcement, when the CFPB asked stakeholders for more input on the “ability to repay” proposed rule. We believe that convening a targeted SBAR panel to address the important issues raised in the re-opened comment period will not compromise CFPB’s statutory deadline for finalizing the rule. A thorough examination of how the “ability to repay” rule will impact small businesses, combined with recommendations gained from the SBAR panel, will help build consensus that will improve the efficacy of the final product.

We are committed to providing you with a small business perspective as you proceed with the “ability to repay” rule. We strongly believe the best way for the final rule to reflect these concerns is for the CFPB to conduct an SBAR panel and consider its recommendations before issuing this regulation.

Thank you for your attention to this important matter.

American Bankers Association  
American Financial Services Association  
American Land Title Association  
Community Mortgage Banking Project  
Community Mortgage Lenders of America  
Credit Union National Association  
Independent Community Bankers of America  
Mortgage Bankers Association  
National Association of Federal Credit Unions  
National Association of Mortgage Brokers  
National Association of Realtors®  
National Federation of Independent Business  
Real Estate Services Providers Council, Inc. (RESPRO®)  
Small Business & Entrepreneurship Council  
The Realty Alliance  
U.S. Chamber of Commerce

cc: The Honorable Winslow Sargeant, Ph.D., Chief Counsel for Advocacy, U.S. Small Business Administration

The Honorable Cass Sunstein, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget