



July 17, 2017

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau  
1275 First St., NE  
Washington DC 20002

Dear Rich:

Thank you for your letter of July 12, 2017, regarding my safety and soundness concerns with the newly released Consumer Financial Protection Bureau (CFPB) rule (Final Rule) banning class-action waivers in arbitration agreements.

My letter, dated July 10, requested that the CFPB share the data and method used to develop and support the Final Rule (CFPB data). Independent analysis of the CFPB data by the Office of the Comptroller of the Currency's (OCC) economists would help answer my questions as I attempt to fulfill my statutory safety and soundness obligations and review the final rule pursuant to Section 1023 of the Dodd-Frank Act (Section 1023). I am writing today to reiterate that request, in the spirit of the *Coordination Principles* that you and my predecessor signed. Despite your prior telephonic and in-person assurances that we would have access to the CFPB data, your July 12 letter ignores my request.

Given your issuance of the Final Rule, notwithstanding your prior receipt of my letter and an earlier e-mail from my staff stating that I wished to discuss this matter with you, I further request that you delay publication of the Final Rule in the *Federal Register* until my staff has had a full and fair opportunity to analyze the CFPB data so that I am able to fulfill my safety and soundness obligations.

I appreciate you giving me your reassurances that the Final Rule does not have any safety and soundness impact on the federal banking system. As you know, the CFPB is, by design, not a safety and soundness prudential regulator. Hence, Congress included Section 1023 in Title X of the Dodd-Frank Act at the same time that it created the CFPB to address potential safety and soundness concerns. When I became aware of the then proposed Final Rule several weeks after becoming Acting Comptroller of the Currency on May 6, 2017, I requested that my Economics Department analyze the proposed Final Rule for its impact on the federal banking system. On July 5, my chief economist requested that I ask for the CFPB data so that we could complete that review. I had hoped to discuss this request with you prior to the release of the Final Rule, but the timing of the release of the Final Rule was not shared with me in advance.

I appreciate you agreeing to have your staff review the study and rulemaking analysis with OCC staff. That review will be helpful, but not sufficient, to allay my concerns. As the prudential regulator for the federal banking system, the OCC should be granted the opportunity to conduct an independent review of the CFPB data to determine the safety and soundness implications of the Final Rule. I will make every effort to expedite that review.

Sharing the CFPB data would further transparency in our government, a goal that I am sure you share and is our obligation when engaging in rulemaking under the Administrative Procedure Act. Therefore, the OCC's request for the CFPB data should not add to the burden or obligation of the CFPB regarding this rulemaking.

As Acting Comptroller, I, like you, oversee an agency with a statutory mission to ensure fair access to financial services, fair treatment of customers, and compliance with applicable laws and regulations. Additionally, the OCC's mission includes ensuring that the federal banking system operates in a safe and sound manner. I appreciate your assistance in helping me fulfill that mission. I know that significant time has been spent in developing the Final Rule during the past several years. A few additional weeks to address the prudential concerns that I have raised seem a sound investment.

Thank you for your continued cooperation.

With all best wishes,



Keith A. Noreika  
Acting Comptroller of the Currency