



May 12, 2025

Executive Office of the President, Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Re: OMB Request for Information: Deregulation

To Whom it May Concern:

The Mortgage Bankers Association (MBA)¹ welcomes the opportunity to comment on the Office of Management and Budget's (OMB) request for information (RFI) on unnecessary, unlawful, unduly burdensome, and unsound rules that should be rescinded. This letter also includes rules that should be revised to better address the current realities of the mortgage market. Overall, MBA supports the rulemaking process when it is used to provide clear rules of the road through a stable and informed process. However, agencies have occasionally promulgated rules that exceed their statutory authority and unnecessarily create significant costs or liability that affects credit availability. This has caused unnecessary regulatory burdens, enforcement risks and uncertainty which has in many instances hindered consumer access to mortgage credit and stifled innovation.

Accordingly, MBA supports the Trump Administration's (the Administration) efforts to deregulate and repeal such rules. In repealing these rules, the promulgating agencies should continue to use existing legal avenues – for example, through sufficient notice and comment – to effectuate these rule rescissions in a way that considers informed feedback by industry. As always, MBA stands ready to partner with the Administration to remove barriers and promote affordable and sustainable homeownership.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

I. Rules that Should be Rescinded

The following rules are either inconsistent with statutory text or the Constitution, create costs that exceed the benefits of the rule, are outdated or unnecessary, or are burdening American businesses in unforeseen ways and thus should be rescinded in their entirety.

Consumer Financial Protection Bureau (CFPB):

- **Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders, 89 Fed. Reg. 56028 (July 08, 2024).** This rule is unnecessary and creates more cost than benefit because the information the CFPB seeks is publicly available. For mortgage companies many of the orders are already captured through the Nationwide Multistate Licensing System (NMLS) Consumer Access.
- **Small Business Lending under the Equal Credit Opportunity Act (Regulation B), 88 Fed. Reg. 35150 (May 31, 2023).** The CFPB has no authority under Section 1071 to promulgate this rule. Dodd-Frank only requires the CFPB to issue rules implementing reporting requirements on small business lending, particularly minority- and women-owned businesses. Promulgating a rule that exceeds this requirement to include loans to finance income-producing investment properties does not further the goal of protecting small businesses.

US Department of Housing and Urban Development (HUD):

- **Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA- Financed Housing, 89 Fed. Reg. 33112 (April 26, 2024).** HUD and USDA's April 2024 final determination mandating compliance with the 2021 International Energy Conservation Code (IECC) for new single-family and multifamily construction will significantly drive-up housing costs and worsen affordability challenges. With over 30 states still operating under the 2009 code and a shortage of inspectors trained on the 2021 standards, this policy creates unnecessary disruption and restricts the already-limited housing supply available to renters and first-time homebuyers.
- **Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard, 89 Fed. Reg. 30850 (April 23, 2024).** Implemented January 1, 2025, HUD's reliance on an undeveloped Climate-Informed Science Approach (CISA) and costly elevation requirements threatens affordable housing production by introducing unclear, burdensome challenges.
- **Reinstatement of HUD's Discriminatory Effects Standard, 88 Fed. Reg. 19450 (May 1, 2023).** HUD should rescind the final rule that reinstated the HUD 2013 Discriminatory Effects Standard, which created disparate impact liability under the Fair Housing Act. This rule does not incorporate the limits on disparate impact

liability that were set forth in 2015 by the Supreme Court in *Texas Dept. of Housing and Community Affairs v. Inclusive Communities* -- two years *after* the 2013 rule was initially promulgated.

- **Modernization of Engagement with Mortgagors in Default, 89 Fed. Reg. 63082 (Jan. 1, 2025).** While intended to provide servicers with the flexibility to deploy alternative methods to conduct meetings with borrowers before foreclosure, this rule preserves a duplicative regulatory requirement that HUD has previously recognized as unnecessary to help borrowers maintain homeownership. Today, FHA and the CFPB's existing early intervention requirements appropriately balance the necessity of strict compliance requirements with the latitude for mortgage servicers to design effective outreach strategies to establish contact with delinquent borrowers. This rule establishes vague contact standards, which only increases a servicer's operational compliance burden without advancing consumer protections.²

II. Rules that Should Be Revised

The following rules create more costs than the benefits they provide, are outdated or unnecessary, or burden American businesses in unforeseen ways but should not be completely rescinded as they do provide some utility to the mortgage industry. Rather, these rules should be revised through the notice and comment rulemaking process.

Consumer Financial Protection Bureau (CFPB):

- **Mortgage Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X), 78 Fed. Reg. 10696 (Jan. 10, 2014).** The CFPB should finalize amendments to the servicing rules to allow streamlined loss mitigation and bring significant benefits to the market and borrowers. To do so, the Bureau should pursue targeted amendments to the existing application framework, provide consumer protections earlier in the process, and establish clear and reasonable parameters for servicers to determine when foreclosure protections begin and end based on an incomplete loss mitigation application. By modernizing Regulation X, the Bureau will remove the unnecessary barriers that impede the servicer's ability to efficiently mitigate losses for investors/guarantors, while maintaining the current focus on procedural rights for borrowers.
- **Part 1024 – Real Estate Settlement Procedures Act (Regulation X), 76 Fed. Reg. 78981 (Dec. 20, 2011).** The CFPB should work with MBA to bring RESPA Section 8 in line with the current state of technology used by the industry and well as with

² Mortgage Bankers Association, Re: Draft Mortgagee Letter, Modernization of Engagement of Borrowers in Default (Sept. 13, 2024), available at [joint-trade-letter-on-modernization-of-engagement.pdf](#) (reflecting FHA's existing policy).

current jurisprudence and ensure industry service providers have clarity as to their potential liability, per MBA's white paper on RESPA Section 8.³

- **Loan Originator Compensation Requirements Under the Truth in Lending Act (Regulation Z), 78 Fed. Reg. 11280 (June 1, 2013).** The CFPB should engage in rulemaking to revise the Loan Originator Compensation Rule (LO Comp Rule).⁴ The rule is too complex and does not accurately reflect the post-Dodd-Frank market realities in a way that is detrimental to consumers.
- **Home Mortgage Disclosure (Regulation C), 82 Fed. Reg. 43088 (Jan. 1, 2018).** The CFPB should amend HMDA regulations to fully exempt business-to-business loans secured by multifamily property from HMDA reporting. Such multifamily loans do not involve consumers, so these transactions should fall outside of the CFPB's statutory consumer-focused mission and objectives.

Federal Housing Finance Agency (FHFA):

- **Lending, Fair Housing, and Equitable Housing Finance Plans 89 Fed. Reg. 42768, (May 16, 2024).** Incorporating UDAP into this final rule is inconsistent with the Enterprises' Charters Acts precisely because it is a broad consumer protection statute. MBA believes UDAP principles as outlined in the FTC Act would not appropriately apply to the Enterprises as those are statutes that generally govern interactions between businesses and consumers, with very limited business to business applications.⁵ Traditionally, FTC UDAP violations relate to inappropriate behavior in consumer markets, such as misleading advertising or unfair trade practices. The Enterprises, on the other hand, are generally prohibited from engaging in direct consumer contact. Further, the application of UDAP as a supervisory framework and annual certification of compliance is inappropriate and could have unintended consequences for multiple market participants. For these reasons we recommend this portion of the proposed rule be removed from any final rule.
- **Enterprise Regulatory Capital Framework (ERCF), 85 Fed. Reg. 82150 (Dec 17, 2020).** There are areas where the ERCF remains too complex and lacks

³ Mortgage Bankers Association, RESPA at 50, Key Reforms to RESPA Section 8 to Better Serve the Modern Mortgage Market (Oct. 24, 2024), available at <https://www.mba.org/news-and-research/newsroom/news/2024/10/24/mba-white-paper-reforms-needed-to-respa-section-8-to-better-serve-consumers-mortgage-market>.

⁴ Mortgage Bankers Association, Re: Regulation Z's Mortgage Loan Originator Rules Review Pursuant to the Regulatory Flexibility Act (May 1, 2023), available at <https://www.mba.org/industry-resources/resource/mba-comment-letter-on-the-cfpb-s-loan-originator-compensation-rules>.

⁵ Mortgage Bankers Association, MBA Comment Letter on FHFA Housing Priorities (Mar. 13, 2025), available at <https://www.mba.org/industry-resources/resource/mba-comment-letter-on-fhfa-housing-priorities>.

transparency, or instances where the ERCF has caused unintended consequences when directly used to set pricing. This has been seen in past policy decisions including the implementation of the Uniform Mortgage-Backed Securities (UMBS) commingling fee, the proposed and later rescinded DTI-based LLPA, and the ongoing issue related to third-party-originated (TPO) loans. Not all risk differentials in the ERCF should be discreetly embedded in the pricing construct. FHFA should reevaluate certain portions of the ERCF. A simpler capital framework would allow for clearer analysis of how various components impact Enterprise business decisions.

US Department of Housing and Urban Development (HUD):

- **Debenture Interest Payment Changes, 72 Fed. Reg. 56161 (June 22, 2006).** HUD should expedite revisions to FHA's claims curtailment policies, an overdue priority which has significantly contributed to the increased cost of servicing a nonperforming FHA loan beyond other portfolios. Today, mortgage servicers must curtail interest for missing any foreclosure deadline, regardless of delays outside the servicer's control. Instead, FHA should amend its existing regulations to either 1) eliminate separate foreclosure timelines and replace them with one overall timeline or 2) impose a pro-rata curtailment structure where servicers are penalized only to the portion of the delay caused. Modernizing this punitive framework is imperative to better align FHA with today's servicing realities that rely heavily on judicial processes, promote continued participation in FHA and Ginnie Mae's program, and further support FHA's mission of sustaining access to affordable mortgage credit.

U.S. Department of Veterans Affairs (VA):

- **Loan Guaranty: Loan Servicing and Claims Procedures Modifications, 73 Fed. Reg. 6308 (Feb. 1, 2008).** The VA should reverse the requirement for a face-to-face interview with the borrower(s)—or a reasonable effort to arrange one—when the servicer has not established contact, determined the borrower's financial circumstances, identified the reason for default, or obtained agreement to a repayment plan. Like FHA, a requirement this provision imposes significant logistical and compliance burdens on servicers and is especially impractical for rural VA borrowers, who may live far from servicing offices or lack access to transportation.

Securities and Exchange Commission (SEC):

- **Asset-Backed Securities Disclosure and Registration, 79 Fed. Reg. 57184, (Sept. 24, 2014).** The SEC should consider amendments to Reg AB II disclosure requirements that will help to restore the registered segment of the PLS market. We recommend harmonization, to the greatest extent possible, of disclosures across all mortgage securitization types, beginning with alignment of registered deals under Reg AB II with the comprehensive disclosures currently used in private 144A

transactions, a model that has proven to be acceptable to private issuers and investors alike. The SEC should also consider modifying its approach to the definitions provided for required data fields. We believe it would be more prudent for the SEC to establish flexibility in its rules to allow the industry to establish data field definitions through the Mortgage Industry Standards Maintenance Organization (MISMO), and for the SEC to accept those changes through staff guidance to avoid the risk of certain definitions becoming outdated or obsolete. If undertaken appropriately, we believe these changes will be a significant driver in fulfilling the SEC's mission by both protecting investors and enabling capital formation for this important part of the residential mortgage finance system.

III. Conclusion

Thank you for your consideration of these comments. Please contact me at (202) 557-2878 and pmills@mba.org or my colleague Justin Wiseman at (202) 557-2854 and jwiseman@mba.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Mills", enclosed in a thin black rectangular border.

Pete Mills
Senior Vice President
Residential Policy and Strategic Industry Engagement
Mortgage Bankers Association