



The Voice of the Retail Banking Industry

June 7, 2018

**Submitted Electronically: Regulations.gov**

The Honorable Mick Mulvaney  
Acting Director  
Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, DC 20552

**RE: Request for Information Regarding Bureau Rulemaking Processes, Docket No. CFPB-2018-0009**

Dear Acting Director Mulvaney:

The Consumer Bankers Association (“CBA”)<sup>1</sup> appreciates the opportunity to provide the Bureau of Consumer Financial Protection (“BCFP” or “Bureau”) with our comments in response to the notice and request for information (“RFI”) on the rulemaking process.<sup>2</sup> CBA supports the Bureau’s effort to assess the overall efficiency and effectiveness of its rulemaking process. Our comment letter provides specific responses to the RFI, as well as our recommendations on steps the Bureau may take to improve the rulemaking process.

**I. Executive Summary**

CBA recommends the Bureau adopt a standardized rulemaking process that is based on the principles of openness, accessibility, and accountability. Openness would promote transparency in the manner in which the Bureau gathers information and analyzes data to support its rulemaking function. Accessibility would require the Bureau to commit to a collaborative rulemaking process that consistently seeks out and incorporates information and perspectives from a diverse array of stakeholders. And accountability would prompt the BCFP to provide

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<sup>1</sup> The Consumer Bankers Association is the only national financial trade group focused exclusively on retail banking and personal financial services—banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members include the nation’s largest bank holding companies as well as regional and super-community banks that collectively hold two-thirds of the total assets of depository institutions.

<sup>2</sup> Bureau of Consumer Fin. Prot., Request for Information Regarding Bureau Rulemaking Process, 83 Fed. Reg. 10437 (Mar. 9, 2018).

industry with more support during the implementation period, and require the Bureau to conduct regular reviews of its rules to assess their efficiency and effectiveness.

As discussed in detail below, our recommendations to the Bureau include:

- Adopting a standardized rulemaking process based on the principles of openness, accessibility, and accountability.
- Providing a roadmap to keep stakeholders engaged and updated on the status of a rulemaking.
- Requiring all information collection requests be subject to the Office of Management and Budget's oversight and to the Paperwork Reduction Act's requirements.
- Adopting uniform and consistent methods to analyze costs and benefits based on the rigorous standards generally applicable to federal government agencies.
- Establishing a minimum comment period of 90 days for each stage of the rulemaking process, or 120 days if there are significant or extensive requests for data. At the notice of proposed rulemaking stage, the standard comment period would be followed by a reply comment period.
- Modifying the small business review panel process to promote openness and inclusiveness in these proceedings.
- Adopting new procedures on reviewing and posting comment letters to improve the efficiency of the rulemaking process and mitigate the risks posed by fraudulent comments.
- Forming an implementation team to support the industry's compliance with new regulations.
- Issuing the small entity compliance guide and examination procedures in conjunction with the release of the final rule.
- Providing covered companies with a 24-month implementation period after the release of a final rule, and a 12-month conformance period to remediate any compliance errors made in good faith.
- Joining the prudential regulators and National Credit Union Administration in their regular decennial reviews of their regulations.
- Reassessing the principles, policies or motivations for providing exemptions to certain covered companies in new regulations.

## II. Standardized Rulemaking Process

Since it first began operations in July of 2011, the Bureau has issued at least 66 regulations, which have varied in scale, scope, and significance.<sup>3</sup> While these rulemakings have been governed by the Administrative Procedure Act (“APA”)<sup>4</sup> and related statutes,<sup>5</sup> the BCFP’s rulemaking process has suffered from a general lack of uniformity and consistency, which has undermined our members’ confidence in its ability to produce clear and effective regulations on a timely basis.

Moving forward, CBA would recommend the Bureau adopt a standardized rulemaking process modeled on Executive Order 12866,<sup>6</sup> which is based on the principles of openness, accessibility, and accountability in the federal rulemaking process. For 25 years, Executive Order 12866 has served as the best practice of the federal government for issuing efficient and effective regulations. It accomplishes this goal by requiring agencies to engage in open and collaborative rulemakings that promote predictability and reduce uncertainty; subject rulemaking proposals to rigorous cost-benefit analysis; and issue clear rules that achieve regulatory objectives in the least burdensome way possible.

In the figure below, we provide a model rulemaking framework for your consideration. It is largely based on the APA and Executive Order 12866, and we believe it will produce a more effective and efficient rulemaking process.

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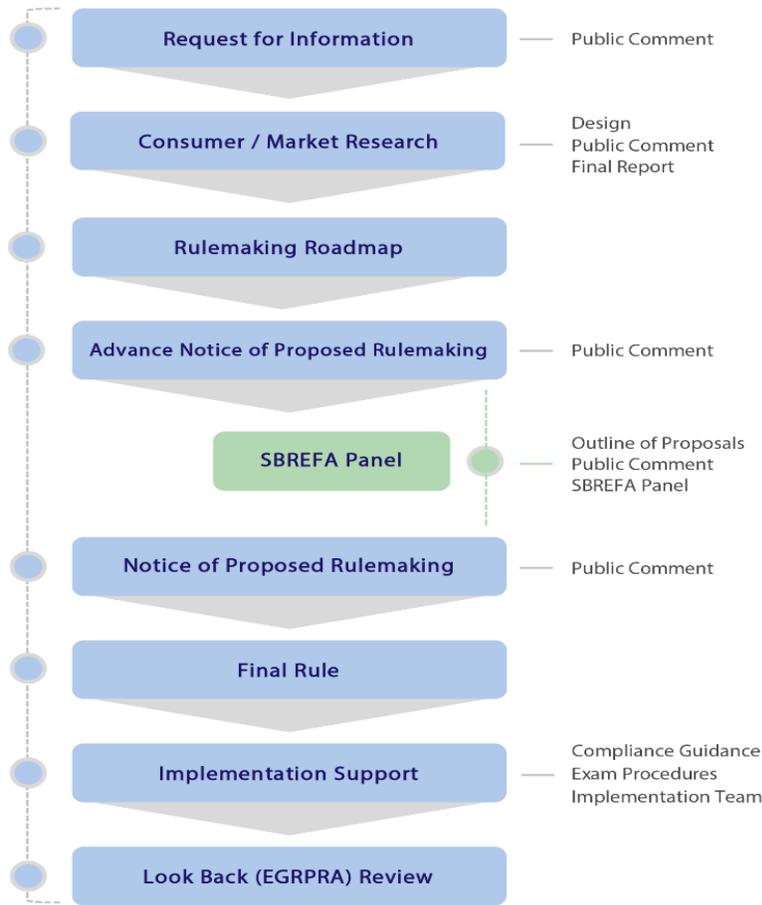
<sup>3</sup> Bureau of Consumer Fin. Prot., Final Rules, at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/> (last visited May 30, 2008).

<sup>4</sup> Codified at 5 U.S.C. § 551 *et seq.*

<sup>5</sup> *See, e.g.*, Paperwork Reduction Act, codified at 44 U.S.C. §§ 3501-3520; Regulatory Flexibility Act, codified at 5 U.S.C. §§ 601-612.

<sup>6</sup> Exec. Order No. 12866, Regulatory Planning and Review, 58 Fed. Reg. 51735 (Oct. 4, 1993).

## BCFP Rulemaking Process



Our framework would require the Bureau to initiate the rulemaking process with an RFI to identify the nature and scope of an issue in the consumer financial market. Consumer or market research would follow to ascertain the significance of the issue and delineate regulatory objectives. Once a determination has been made to pursue a regulatory solution, the Bureau would publish a roadmap, which would diagram the rulemaking process it will follow to issue a new regulation. The roadmap would be regularly updated and available on the Bureau’s website.

The Bureau would then issue an advance notice of proposed rulemaking (“ANPRM”) that provides a detailed outline of its rulemaking proposal. If required by the Small Business Regulatory Enforcement Fairness Act (“SBREFA”),<sup>7</sup> the Bureau would

convene a small business review panel (or “SBREFA Panel”) to evaluate the potential impact of a regulation on small entities. The notice of proposed rulemaking (“NPRM” or “proposal”) would then provide the public with a detailed rulemaking proposal for comment. A reply comment period would follow the initial comment period, giving the public an opportunity to reassess their positions in light of new evidence or other stakeholder perspectives.

The issuance of the notice of final rulemaking (“NFRM” or “final rule”) would be joined by the release of a small entity compliance guide and the examination procedures to be used by Bureau examiners to assess compliance with the new regulation. An implementation team would be formed at the Bureau to support the industry’s compliance efforts, and a final rule that imposes new, material burdens on covered companies would provide them with at least 24 months to implement the new rule. In addition, the Bureau would provide a 12-month conformance period for such rules, during which compliance issues with the final rule would be addressed through the supervisory process, rather than enforcement action, so long as covered companies were making good-faith efforts to comply. Finally, BCFP would join the Federal

<sup>7</sup> Pub. L. No. 104-121 (1996).

Reserve (“Fed”), Federal Deposit Insurance Corporation (“FDIC”), Office of the Comptroller of the Currency (“OCC”), and the National Credit Union Administration (“NCUA”) in their regular decennial review of their regulations, as set out in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (“EGRPRA”).<sup>8</sup>

The model framework provides a comprehensive overview of the important elements of the rulemaking process. Not all of these elements would be necessary for each and every rulemaking, but the overall framework is intended to promote openness, accessibility, and accountability in the Bureau’s rulemaking process.

### **III. Specific Responses to the Bureau’s Request for Information**

#### **A. Initial Outreach and Information Gathering**

##### **1. Seek Greater Stakeholder Input during the Early Phases of the Rulemaking Process.**

As suggested by our model rulemaking framework, CBA believes the Bureau could improve the efficiency and effectiveness of its regulations by drawing upon the knowledge and experience of industry stakeholders much earlier in the rulemaking process. The Bureau should begin each rulemaking with an RFI to determine whether a significant market failure or compelling public need exists that requires the intervention of the BCFP through rulemaking. In the same vein, the Bureau should work with industry and other stakeholders to design and carry out fair and balanced research studies to support rulemakings with strong facts and evidence.

As a general rule, the Bureau should provide the public with 90 days or more to submit information or comments; we would recommend 120 days if the Bureau is making extensive requests for data. Our experience with past rulemakings has shown that 60 days rarely affords commenters the opportunity to provide the Bureau with the type of comprehensive and substantive feedback it needs to significantly improve its proposals.

##### **2. Subject All Information Collection Requests to the Standards Set in the Paperwork Reduction Act**

The Bureau has a number of tools to gather information and data from consumers, covered companies, and other industry stakeholders, including RFIs, surveys, market research studies, and ANPRMs. Most, if not all, of these tools are information collection requests (“ICR”)<sup>9</sup> within the meaning of the Paperwork Reduction Act (“PRA”)<sup>10</sup> and are therefore subject to its procedural requirements.

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<sup>8</sup> Pub. L. No. 104-208 (1996), codified at 12 U.S.C. § 3311.

<sup>9</sup> 44 U.S.C. § 3502(3).

<sup>10</sup> Codified at 44 U.S.C. §§ 3501-3520.

We are aware, however, that the Bureau also contacts financial institutions, including CBA members, to conduct *ad hoc* ICRs that avoid the PRA's requirements. This is accomplished by requesting information from less than the law's threshold requirement of "ten or more persons."<sup>11</sup> CBA would urge the Bureau to cease this practice as it violates the spirit, if not the letter, of the PRA.

The PRA was enacted to protect the public from the federal government's onerous data collection exercises. It establishes clear requirements on the part of a requesting agency to demonstrate the need for information, as well as a description of the information to be collected. Moreover, ICRs are subject to public inspection and oversight by the Office of Management and Budget ("OMB"). These procedural protections are intended to minimize data collection burdens and bring transparency to the federal government's data gathering efforts.

In light of these important objectives, the Bureau should abide by the PRA's requirements for all its information collection activities. This would better align the Bureau's ICR practices with the intent of the PRA, as even a single data request of one CBA member bank may mean the collection of data from millions of customer accounts.

3. Provide Model Data Forms to Facilitate the Collection of Nationally Representative Data.

CBA is supportive of the Bureau's data collection efforts as we are in favor of evidence-based regulations. However, past experience has shown that the Bureau's need for data often results in broad information requests without sufficient direction or guidance on what is being sought.

We recommend the BCFP provide model data forms whenever it seeks data or information to support a rulemaking. While commenters should not be limited to providing only the requested information, model data forms would measurably improve their ability to provide the Bureau with the data it needs, rather than waste time and resources gathering irrelevant information.

4. Conduct Uniform and Consistent Cost-Benefits Analysis.

CBA is strongly supportive of rigorous and transparent cost-benefit analysis as it is the fairest means of allocating regulatory burdens in a way that promotes public welfare. As best said in Executive Order 12866,

Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need ... or the well-being of the American People. In deciding whether and how to regulate,

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<sup>11</sup> 44 U.S.C. § 3502(3)(A)(i). Under the PRA, "person" means "an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision." 44 U.S.C. § 3502(10).

agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulation.<sup>12</sup>

Unfortunately, unlike the vast majority of the federal government, the independent financial regulatory agencies, including the BCFP, are not subject to Executive Order 12866 or OMB guidance on agency rulemaking.<sup>13</sup> We believe this is a significant error, which has contributed to less than optimal regulations from the BCFP. Although the Bureau is subject to its own discrete cost-benefit requirements,<sup>14</sup> these requirements lack the analytical rigor mandated by Executive Order 12866. As recently noted by the Treasury Department, the current approach of the financial regulators to cost-benefit analysis is “fragmented and inconsistent.”<sup>15</sup> And the Government Accountability Office (“GAO”) has recommended that “[b]y taking steps to more fully incorporate OMB’s guidelines in their rulemaking policies and procedures, federal financial regulators could enhance the rigor and transparency of their regulatory analyses.”<sup>16</sup> CBA certainly agrees with the Treasury Department’s diagnosis and the GAO’s recommendation; the BCFP should adopt and comply with the cost-benefit analysis requirements set out in Executive Order 12866 and related OMB guidance.

#### B. SBREFA Process

CBA is supportive of the SBREFA process, which provides the BCFP with an opportunity to gather feedback and input from small entities likely to face significant economic impacts from a Bureau rulemaking. When used in conjunction with outreach to larger stakeholders, the SBREFA process helps provide the Bureau with a complete picture of industry views on a rulemaking proposal.

Our major concerns with the SBREFA process are related to the general lack of transparency surrounding the proceeding. From an outsider’s perspective, it appears that only the BCFP, Small Business Administration (“SBA”), and OMB’s Office of Information and Regulatory Affairs (“OIRA”) are involved in selecting a representative group of small entities to serve on the panel. Additionally, the decision to provide the public with an opportunity to review the SBREFA panel materials, including the “Outline of Proposals” offering an early draft of the rulemaking proposal, is completely at the Bureau’s discretion. Moreover, the final SBREFA panel report is inexplicably withheld until the release of the NPRM, even when the report is complete and available for publication months in advance.<sup>17</sup>

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<sup>12</sup> Exec. Order No. 12866, § 1(a).

<sup>13</sup> See OMB, Notice, Circular A-4, Regulatory Analysis, 68 Fed. Reg. 58366 (Oct. 9, 2003).

<sup>14</sup> Dodd-Frank Act, § 1022(b)(2)(A), codified at 12 U.S.C. § 5512(b)(2)(A).

<sup>15</sup> U.S. Department of the Treasury, A Financial System That Creates Economic Opportunities, Banks and Credit Unions (June 2017) at 63.

<sup>16</sup> Government Accountability Office (“GAO”), Dodd-Frank Act Regulations: Implementation Could Benefit from Additional Analyses and Coordination (Nov. 2011) at 37.

<sup>17</sup> See GAO, Consumer Financial Protection Bureau, Observations from Small Business Review Panels (Aug. 2016) at 11 (“For the rulemakings we reviewed, the panel reports were publicly released approximately 2-4 months after the reports were completed and approximately 4-6 months after the panels were convened.”)

We suggest making the SBREFA panel a more open and inclusive proceeding. First, the Small Entity Representative selection process should be made public and interested parties should be given the opportunity to petition for a seat on the panel. Second, the Bureau should continue to issue the SBREFA panel materials for public review, but it should incorporate a comment period to gather feedback from other stakeholders. And third, the Bureau should issue the final SBREFA panel report as soon as it is completed rather than wait until the NPRM to provide the report.

### C. Notices of Proposed Rulemaking

#### 1. Provide the Public with a Reasonable Comment Period

As we have previously noted, past experience has shown that 60 days is not a sufficient period of time for stakeholders to provide the Bureau with comprehensive and substantive feedback on its rulemaking proposals. In addition, a short comment period makes it difficult to provide the Bureau with the data it has often requested. More worryingly, time constraints may prevent commenters from providing the Bureau with a deeper, more thorough examination or critique of its rulemaking proposals. CBA recommends the Bureau provide the public with at least 90 days to respond to an NPRM. We would suggest extending the comment period to 120 days if the Bureau makes extensive data requests.

#### 2. Adopt a Reply Comment Period for NPRMs

CBA supports the adoption of a 60-day reply comment period during the NPRM stage of the rulemaking process. This would be a valuable addition to the Bureau's rulemaking process, as it would offer all interested parties a chance to reassess their positions in light of new facts and diverse perspectives.

CBA has experience with the reply comment process offered by the Federal Communication Commission ("FCC") in its rulemaking and petition processes. Our members appreciate the opportunity to learn from the different views presented by consumers, businesses, and other regulatory agencies. We have also found the reply comment period to improve the rulemaking process as it sharpens the distinctions between areas of agreement and disagreement. Consequently, all interested parties, including the rulewriting agency, can focus their attention on areas of dispute rather than waste time on non-controversial issues.

### 3. Validate Comments Before Posting Them

Recent media accounts have reported disturbing abuses of the comment process in an attempt to controvert the federal rulemaking process. A *Wall Street Journal* investigation, in particular, revealed the filing of fraudulent comment letters to multiple federal agencies, including the BCFP.<sup>18</sup> And even if not fraud *per se*, federal agencies have been inundated with duplicative letters designed to influence the issuance or repeal of a regulation. The BCFP, for instance, received 1.4 million comment letters in response to its payday rule proposal, many of which were fake or fraudulent form letters.<sup>19</sup>

Preventing the filing of fake or duplicative comment letters is a difficult task, but the Bureau must adopt new tactics to minimize their impact and improve the efficiency of the rulemaking process. As a start, we make the following suggestions:

- Registration Requirements – Require commenters to register with *Regulations.gov* in order to electronically file a comment letter, with electronic filings limited to *Regulations.gov* or a web-based email service (*i.e.*, a web application running on a web server).
- Automated Review – Automate the initial review of comment letters to separate unique comment letters from duplicative or largely duplicative letters. An automated review process would speed up the rulemaking process and allow the Bureau to focus its attention on substantive issues.
- Authentication Process – Publish only authenticated comment letters and require filers of suspicious letters to verify their identity.
- Anonymous Comments – Prohibit the posting of anonymous comment letters as the benefits of providing an unmoderated forum are outweighed by the risks posed by fraudulent letters.

### 4. Modify the *Ex Parte* Policy to Obtain Candid and Substantive Input From Industry.

The BCFP's *ex parte* policy<sup>20</sup> hinders the Bureau's ability to issue effective and efficient regulations. CBA members have expressed a reluctance to meet with the Bureau during the rulemaking process based on the concern that any information shared with the BCFP will be publicly released as a part of its *ex parte* policy. The unintended consequence of the *ex parte* policy is to deprive the Bureau of valuable data and information related to bank practices and

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<sup>18</sup> James V. Grimaldi and Paul Overberg, Hidden Influence, Millions of People Post Comments on Federal Regulations. Many are Fakes, *Wall St. J.*, Dec. 12, 2017.

<sup>19</sup> *Id.*

<sup>20</sup> Bureau of Consumer Fin. Prot., Policy on Ex Parte Presentations in Rulemaking Proceedings, 82 Fed. Reg. 18687 (Apr. 21, 2017).

operations, customer account activity, and consumer behavior, all of which could help inform and improve the final rule. The Bureau should reexamine its *ex parte* policy to determine whether it strikes the right balance between the desire for transparency and the need for candid, substantive input from industry stakeholders during the rulemaking process.

#### D. Final Rule and Implementation

The issuance of a final rule marks the beginning of the implementation process for CBA members. As a general principle, clear rules and guidance offer the best opportunity for the industry to smoothly transition from reviewing the final rule to implementing its provisions. As stated in Executive Order 12866's *Principles of Regulation*, "Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty."<sup>21</sup>

##### 1. Improve the Readability of the Notice of Final Rulemaking

The Bureau could adopt a number of simple changes to its NFRM to make it easier to review and understand. We suggest the following enhancements:

- Table of Contents and Index – Every NFRM should contain a table of contents and an index. Such simple changes could measurably improve the readability of these NFRMs, as navigating these (often long) documents can be a cumbersome and frustrating process.
- Redline Version with Annotations – The Bureau should issue a "redline" version of the NFRM that clearly and conspicuously discloses the textual changes that have occurred since the issuance of the proposal. Annotations on the redline version could also be added to clarify why certain changes were made.
- Digital Notices – The Bureau should leverage its technological abilities by providing a digital version of the NFRM in parallel with the paper-based notices. And by digital version, we mean a version of the final rule that is akin to the Bureau's eRegulations project.<sup>22</sup> We do not mean a PDF document or an electronic version of the rule as is provided on the *Federal Register* website.

##### 2. Provide Industry with More Support During the Implementation Period

Implementing a new regulation is often a challenging endeavor for all covered institutions. It requires the creation and coordination of multiple workstreams related to compliance, operations, and technology, as well as the hiring and training of additional employees to

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<sup>21</sup> Ex. Ord. No. 12866, § 1(b)(12).

<sup>22</sup> Bureau of Consumer Fin. Prot., eRegulations, at <https://www.consumerfinance.gov/eregulations/> (last visited June 7, 2018).

manage and oversee new systems and processes. An already difficult task can be made much more so by a disorderly roll out of a new regulation caused by confusing rules, short implementation periods, and insufficient guidance or support. CBA and its members request greater support and assistance from BCFP after the release of a final rule to improve the efficiency and effectiveness of the industry's implementation efforts. We make the following specific recommendations:

- Small Entity Compliance Guide – The small entity compliance guide required by section 212 of SBREFA<sup>23</sup> should be issued in conjunction with the release of the NFRM. Indeed, SBREFA itself requires guides be published on the same date as the issuance of the final rule (although some delay is allowed, but no later than the effective date of the rule).<sup>24</sup> Early issuance of these guides would provide valuable direction to our members as they plan out their implementation efforts.
- Exam Procedures – The exam procedures to be used by Bureau examiners should be issued in conjunction with the release of the final rule. Much like the small entity compliance guides, exam procedures offer our members valuable information about how to implement a new regulation.
- Implementation Period – The implementation period for new rules (other than internal administrative rules or rules that place no new material burdens on industry) should, by default, be set at 24 months. Past experience with new regulations issued by the BCFP has shown that a short implementation period results in a disorderly process for covered companies of all sizes, as well as the vendors and service providers they often work with to meet the compliance deadline. A 24-month implementation period appropriately balances the Bureau's need to regulate the consumer financial markets and covered companies' need to make system and process changes to comply.
- Conformance Period – A 12-month conformance period should follow the implementation period. During this period, the Bureau would work with industry to address any compliance issues through the supervisory process, rather than through enforcement actions, so long as covered companies are making good-faith efforts to comply with the new rules.
- Implementation Team – An implementation team should be established by the Bureau to support the efforts of covered companies to comply with a new regulation. This team would be dedicated to responding to compliance questions and issues, and it would be authorized to provide authoritative interpretations and guidance on behalf of the BCFP in a public format, *e.g.*, F.A.Q., bulletins, guidance documents.

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<sup>23</sup> Pub. L. No. 104-121 (Mar. 29, 1996).

<sup>24</sup> *Id.* at § 212(a)(3).

## IV. Other Recommendations

### A. Look-Back Review

CBA and our members firmly believe regulations must be periodically re-examined to maintain an effective and efficient financial regulatory system. Look-back reviews are a common best practice in the federal government, as enunciated by successive Presidents through executive orders.<sup>25</sup> Although the independent regulatory agencies are not beholden to these orders, the Fed, FDIC, and OCC are required by EGRPRA to review all of their regulations on a decennial basis to “identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions.”<sup>26</sup> And while the NCUA is not subject to EGRPRA, it has elected to join the federal banking agencies in the review process.<sup>27</sup>

The BCFP is, of course, subject to its own look-back review requirements. Under section 1022(d) of the Dodd-Frank Act, the Bureau must review its significant rules, assess their effectiveness, and issue a report within five years of the rules’ effective dates.<sup>28</sup> However, unlike the EGRPRA process, section 1022(d) mandates only a single review and lacks any ongoing review requirement.

The BCFP should follow the example set by the NCUA and voluntarily accede to the EGRPRA review process. An ongoing obligation to review regulatory burdens would promote a more efficient and effective rulemaking process as the Bureau would have to assess the performance of its rules on a regular schedule, and it would help ensure rules do not become obsolete in light of technological changes. It would also provide covered companies with a formal opportunity to provide the Bureau with their assessment of its rules. Ultimately, we believe the give-and-take of the look-back review process would produce healthier consumer financial markets for all participants.

### B. Exemptions

The BCFP, like many federal agencies, regularly provides exemptions in its regulations to shelter certain covered companies from the application of a regulation or certain provisions thereof. We understand the desire to provide exemptions to, for instance, small creditors who may not have the resources to fully comply with a new regulation. However, we believe that consumers should not receive different levels of protection based on the type of provider of a financial product or service. It seems unfair and unrealistic to expect consumers to know which financial

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<sup>25</sup> See generally Exec. Order No. 12866; Exec. Order No. 13563, Improving Regulation and Regulatory Review, 76 Fed. Reg. 3821 (Jan. 21, 2011); Exec. Order No. 13771, Reducing Regulation and Controlling Regulatory Costs, 82 Fed. Reg. 9339 (Jan. 30, 2017); Exec. Order No. 13772, Core principles for Regulating the United States Financial System, 82 Fed. Reg. 9965 (Feb. 8, 2017).

<sup>26</sup> 12 U.S.C. § 3311.

<sup>27</sup> See Federal Financial Institutions Examination Council, Joint Report to Congress, Economic Growth and Regulatory Paperwork Reduction Act (Mar. 2017)

<sup>28</sup> Codified at 15 U.S.C. § 5512(d).

institutions are subject to greater scrutiny or higher regulatory thresholds when they are shopping for a particular financial product or service.

The Bureau should reassess the principles underlying its policies or motivations for providing regulatory exemptions. We would argue that if the motivation for exemptions is based on issues of regulatory burden or compliance challenges, then the better solution may be to craft regulations that are simple, clear, and easy to comply with for all covered companies. This option would be preferable to the current model of issuing complicated rules and carving out a select group of financial institutions. And consumers would expect and receive the same level of protection no matter where they receive their financial product or service.

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Thank you for the opportunity to share our comments with you about the Bureau's rulemaking process. Please reach out to us if you have any questions about our letter or any of our recommendations.

Sincerely,



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