May 12, 2025

Russell Vought
Director
Executive Office of the President
Office of Management and Budget

Re: Request for Information: Deregulation

Dear Director Vought:

The Housing Policy Council ("HPC") appreciates the opportunity to respond to the Office of Management and Budget's ("OMB") Request for Information on Deregulation ("RFI"). We welcome the focus of the Administration on identifying and subsequently rescinding or refining regulations that are inconsistent with statutory text, where costs exceed benefits, where the regulation is outdated or unnecessary, or where the regulation is burdening American businesses in unforeseen ways.

HPC has reviewed existing regulations against the criteria identified in the RFI and Executive Order 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative* ("Deregulation EO").[1] We have identified seven rules that meet at least one, but often multiple, priorities identified in the RFI and Deregulation EO and for which rescission or modification would have a meaningful impact on the mortgage industry, without detrimental harm to consumers or the mortgage market.

As detailed in the appendix, which details our recommendations using the form provided on www.regulations.gov, our recommendations for rescission or modification are as follows:

1) **FHFA's Fair Lending Oversight and Equitable Housing Finance:** The rule is unnecessarily duplicative of existing laws and regulations, imposes significant costs on the mortgage industry that are not outweighed by public benefits, and is not based on the best reading of the underlying statute. Therefore, it should be rescinded.
2) **HUD's Pre-Foreclosure Meeting Requirement:** This Federal Housing Administration (FHA) regulatory provision imposes significant costs upon private parties that are not outweighed by public benefits, and it significantly and unjustifiably impedes technological innovation. This provision of the regulation should be rescinded.

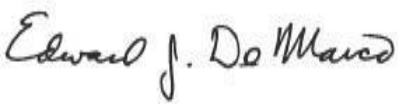
[1] Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative, 90 Fed. Reg. 10583 (Feb. 25, 2025).

3) **CFPB's Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders:** The CFPB's nonbank registry requirement imposes significant costs upon private parties that are not outweighed by public benefits, is duplicative and unnecessary, and is not based on the best reading of the underlying statute. The rule should be rescinded.

4) **CFPB's Good Faith Determination for Estimates of Closing Costs in TRID:** The tolerance provisions of the TRID regulations should be rescinded as they are inconsistent with the statute, and they place an undue burden on private parties that is not outweighed by public benefits.

We look forward to working with OMB and the relevant federal agencies to rescind and reform these regulations to reflect the best reading of the statute and appropriately balance costs and benefits.

Yours truly,



Edward J. DeMarco
President
Housing Policy Council

Appendix: HPC's Detailed Recommendations for Deregulation

FHFA – Fair Lending/UDAP

Which agency/agencies promulgated the regulation?

Federal Housing Finance Agency

Which title, part, and/or sections of the Code of Federal Regulations (C.F.R.) should be rescinded?

12 C.F.R. pt. 1293

Is your proposed rescission a notice of proposed rulemaking, final rule, direct final rule, interim final rule, or interpretive rule?

Notice of Proposed Rulemaking.

What is the name of the regulation being rescinded, if applicable?

Fair Lending Oversight and Equitable Housing Finance

Please provide a short summary of the justification for the rescission.

The 2024 Fair Lending Oversight and Equitable Housing Finance rule added new requirements related to fair lending, fair housing, unfair or deceptive acts or practices ("UDAP"), and Equitable Housing Finance Plans for the Government-Sponsored Enterprises ("GSEs") and Federal Home Loan Banks ("FHLBs"). It should be rescinded as it is unnecessarily duplicative of existing laws, regulations and requirements (including rules that are administered by other agencies), imposes significant costs on private parties that are not outweighed by public benefits and is not based on the best reading of the underlying statutes.

What is the background for the regulation being rescinded?

The rule was proposed in 2023 to supposedly address barriers to sustainable housing opportunities for underserved communities by codifying existing Federal Housing Finance Agency ("FHFA") practices in regulation and adding new requirements related to fair lending, fair housing, and Equitable Housing Finance Plans. Many in the mortgage industry objected to the proposal, noting that it served no obvious purpose and only referenced existing laws that already apply to the regulated entities and that FHFA or other agencies have authority to enforce. FHFA did not provide adequate justification for the purpose or necessity of the rule and further confused the existing landscape of fair housing and fair lending supervision and enforcement. Notably, one of FHFA Director Pulte's first actions was to waive portions of the rule, specifically the Enterprise Equitable Housing Finance Planning Requirements (12 C.F.R. pt. 1293, subpart. C).

Explain the reasons for the rescission.

The rule is unnecessary as it only references fair housing and fair lending laws that currently apply to the regulated entities. The rule creates unnecessary confusion and uncertainty with the regulated entities and their counterparties as it is silent as to how FHFA will exercise the authority

in relationship to other federal government agencies that have primary responsibility or share enforcement over fair housing and fair lending laws.

The rule must be rescinded as it is not the best reading of the statute. The rule includes specific references to UDAP but fails to recognize the clear distinction between that law and fair housing and fair lending. Additionally, the rule blurs the distinction between business practices that affect the safety and soundness of the regulated entities and their mission activities. FHFA, relevant laws and regulations have long recognized these purposes are distinct and should be regulated separately.

Describe the text of the relevant C.F.R. provisions as it will exist after the rescission.

The relevant provision, 12 C.F.R. pt. 1293, would be rescinded in its entirety.

Pre-Foreclosure Meeting Requirement

Which agency/agencies promulgated the regulation?

U.S. Department of Housing and Urban Development ("HUD").

Which title, part, and/or sections of the Code of Federal Regulations (C.F.R.) should be rescinded?

12 C.F.R. § 203.604(a)

Is your proposed rescission a notice of proposed rulemaking, final rule, direct final rule, interim final rule, or interpretive rule?

Notice of Proposed Rulemaking.

What is the name of the regulation being rescinded, if applicable?

Modernization of Engagement with Mortgagors in Default

Please provide a short summary of the justification for the rescission.

The rule is duplicative, unnecessary and imposes significant costs upon private parties that are not outweighed by public benefits.

What is the background for the regulation being rescinded?

In 2024, HUD revised its regulation that requires mortgagees of FHA insured single family mortgages to meet in person, or make a reasonable effort to meet in person, with mortgagors who are in default on their payments. The preface to the rule asserted an intent to align with advances in electronic communication technology and mortgagor engagement preferences, while preserving consumer protections. However, it failed on both accounts.

Explain the reasons for the rescission.

Rescinding this regulation would reduce an unnecessary compliance burden and allow mortgage lenders and servicers to more efficiently operate their loan modification and assistance efforts. These meetings delay engagement, rarely occur, and divert resources that could be better targeted towards assisting struggling homeowners.

Additionally, prescriptive requirements regarding the scheduling of such meetings have proven overly burdensome, operationally unworkable, and futile, given that most borrowers do not want to participate in these meetings and are not obligated to do so to receive assistance. It appears that the sole purpose is to serve as the grounds for meritless arguments for the plaintiff's bar in fighting foreclosures.

Lastly, the process is duplicative to the contact requirements under the CFPB's servicing rules as well as state laws in many jurisdictions. In sum, the benefits to the pre-foreclosure meetings are woefully insufficient relative to the operational and cost burden.

Describe the text of the relevant C.F.R. provisions as it will exist after the rescission.

Subsection 12 C.F.R. 203.604(a) would be rescinded in its entirety, and the remaining provisions of 12 C.F.R. 203.604 would be renumbered accordingly.

Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders

Which agency/agencies promulgated the regulation?

Consumer Financial Protection Bureau ("CFPB").

Which title, part, and/or sections of the Code of Federal Regulations (C.F.R.) should be rescinded?

12 C.F.R. pt. 1092.

Is your proposed rescission a notice of proposed rulemaking, final rule, direct final rule, interim final rule, or interpretive rule?

Notice of Proposed Rulemaking.

What is the name of the regulation being rescinded, if applicable?

Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders

Please provide a short summary of the justification for the rescission.

The rule is duplicative, unnecessary and imposes significant costs upon private parties that are not outweighed by public benefits.

What is the background for the regulation being rescinded?

Finalized in 2024, the rule requires certain types of nonbank covered persons subject to certain financial public orders obtained or issued by a government agency in connection with the offering or provision of a consumer financial product or service to report the existence of the orders and related information to a Bureau registry. The rule also requires certain supervised nonbanks to file annual reports regarding compliance with registered orders.

Explain the reasons for the rescission.

The rule is duplicative of existing requirements by state and federal agencies and places substantial burden on private parties without countervailing public benefits. The rule requires nonbanks subject to CFPB jurisdiction to submit public enforcement orders with other state or federal agencies related to consumer financial products or services. These orders are already publicly available, with most being available on the Nationwide Multistate Licensing System & Registry ("NMLS").

The rule was promulgated under a Dodd-Frank Act provision providing the CFPB "may prescribe rules regarding registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person."[1] This relatively shaky interpretation of statutory authority for the rule is coupled with an additional requirement for the CFPB to consult with state regulatory agencies on any such registration system in the Dodd-Frank Act: "In developing and implementing registration requirements . . . , the [CFPB] shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate."[2] Provided that there is publicly expressed "disappoint[ment]" from the Conference of State Bank Supervisors given the Final Rule's likelihood for "industry

confusion and redundant reporting,"[3] it appears that the CFPB may not have sufficiently consulted with state regulatory agencies.

The regulation does not meet the CFPB's statutory requirement of minimizing regulatory burden and using existing reports and public information. (12 U.S.C. § 5514(b)(4)). As it is not based on the best reading of the underlying statute, it must be rescinded.

Additionally, the rule's attestation requirements create unnecessary and burdensome liability on supervised entities and attesting executives without countervailing benefits.

The broad scope of the definition of "covered order" does not result in the CFPB accurately identifying "repeat offenders" (a stated purpose of the rule), and it should be rescinded for being overly broad.

Finally, the costs of compliance for private entities are far greater than benefits for the public.

On April 11, 2025, the CFPB announced that it would "not prioritize enforcement or supervision actions with regard to entities that do not satisfy future deadlines under the regulation to submit registration information." The CFPB also stated that it is "further considering issuing a notice of proposed rulemaking to rescind the regulation or narrow its scope."[2]

Describe the text of the relevant C.F.R. provisions as it will exist after the rescission.

12 C.F.R. pt. 1092 would be rescinded in its entirety.

[2] https://www.consumerfinance.gov/about-us/newsroom/cfpb-offers-regulatory-relief-from-registration-requirements-for-small-loan-providers/.

TRID Tolerance Provisions

Which agency/agencies promulgated the regulation?

Consumer Financial Protection Bureau ("CFPB").

Which title, part, and/or sections of the Code of Federal Regulations (C.F.R.) should be rescinded?

12 C.F.R. § 1026.19(e)(3).

Is your proposed rescission a notice of proposed rulemaking, final rule, direct final rule, interim final rule, or interpretive rule?

Notice of Proposed Rulemaking.

What is the name of the regulation being rescinded, if applicable?

Good faith determination for estimates of closing costs in the TILA-RESPA Integrated Disclosure Rule ("TRID")

Please provide a short summary of the justification for the rescission.

This provision of the rule is inconsistent with the underlying statute and places an undue burden on private parties without a countervailing public benefit.

What is the background for the regulation being rescinded?

The Dodd-Frank Act directed the CFPB to integrate the disclosures required under the Truth in Lending Act ("TILA") and the Real Estate Settlement Procedures Act ("RESPA") for closed-end mortgage loans. The CFPB's 2013 TRID rule requires the lender to provide consumers a Loan Estimate ("LE") after application and a Closing Disclosure ("CD") shortly before loan closing. The LE discloses "good faith estimates" of key loan terms and settlement costs. The rule includes cost "tolerances" – acceptable price deviations from the LE to the CD for most charges related to the settlement (e.g., recording fees, appraisal, transfer taxes) to prevent surprise higher costs at closing. There are three categories of tolerances: zero; 10 percent; and unlimited and vary based on whether the charges are imposed by the lender, whether the consumer can select a provider, or whether the consumer selects from a lender provided list of providers. If a charge exceeds the applicable tolerance level, generally, the lender must refund the amount of that excess.

Explain the reasons for the rescission.

The tolerance provisions in the TRID regulation are inconsistent with the statute, and the costs of complying with these provisions outweigh the public benefit; therefore, the provisions should be rescinded.

RESPA requires lenders to provide "a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement…" (12 U.S.C. § 2601(c)). The critical statutory language is "estimate" and it does not establish limits on specific fees. TILA requires disclosures of key costs of credit (e.g., APR, finance charge, late fees). There are set specific tolerances for the APR and finance charge, but otherwise TILA is silent on tolerances. There is no statutory basis for the tolerance provisions in the TRID rule, and in fact, the provisions contradict the statutory language and construct. The effect of these tolerance levels is cost guarantees, including costs that the lender cannot control (e.g., transfer taxes and other third-party charges). These provisions place a substantial operational and cost burden on lenders, which is not justified by consumer benefits. Therefore, the tolerance provisions should be rescinded, and it should be clear that RESPA's requirement for a "good faith estimate" is satisfied if the aggregate amount of the charges paid by or imposed on the consumer do not exceed the estimated fees by more than 10 percent. TILA's tolerances for the finance charge and APR would continue to apply.

Describe the text of the relevant C.F.R. provisions as it will exist after the rescission.

The provisions found in 12. C.F.R. § 1026.19(e)(3)(i) - (e)(3)(iii) would be removed and replaced with the following:

> **General rule.** An estimated closing cost disclosed pursuant to paragraph (e) of this section is in good faith if the aggregate amount of the charges paid by or imposed on the consumer does not exceed the amount originally disclosed under paragraph (e)(1)(i) of this section, by more than 10 percent.

The remaining sections would be renumbered accordingly.