



April 30, 2025

The Honorable Russell Vought  
Acting Director Consumer Financial Protection Bureau (CFPB)  
1700 G Street, NW Washington, DC 20552

Re: CFPB's Compliance with Deregulatory Executive Order

Dear Acting Director Vought:

On behalf of the Housing Policy Council (HPC)<sup>1</sup>, we are writing to provide recommendations to the Consumer Financial Protection Bureau (CFPB) in light of Executive Order 14219 ("Executive Order"), which directs agency heads to identify and rescind unlawful regulations that undermine the national interest and associated administrative guidance.<sup>2</sup> HPC represents a broad array of mortgage service providers with a direct interest in the impacts of administrative actions. We agree with the intent of the Executive Order, to focus regulatory, supervisory, and enforcement resources on areas that are explicitly authorized by constitutional Federal statutes.

Below, we have identified a number of sub-regulatory items, primarily guidance, advisory opinions, and agency statements that are overreaching and contrary to the Administration's mission to eliminate the overbearing and burdensome administrative state. We also have classified these sub-regulatory items in accordance with the classes identified in the Executive Order.

These items include the following:

1. **CFPB Statement of Policy Regarding Prohibition on Abusive Acts or Practices**<sup>3</sup>

This guidance lacks clarity on what constitutes prohibited abusive conduct, interpreting statutory language in the broadest possible terms. Unlike the Federal Trade Commission's approach to unfair or deceptive acts, it omits any cost/benefit analysis and fails to require proof of actual consumer harm, labeling common, beneficial industry practices like form contracts as potentially abusive. This policy statement is not based on the best reading of the underlying statutory authority, and it potentially imposes significant costs upon private parties that are not outweighed by public benefits (Classes (iii) and (v) in the Executive Order).

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<sup>1</sup> The Housing Policy Council is a trade association comprised of the leading national mortgage lenders and servicers; mortgage, hazard, and title insurers; and technology and data companies. Our interest is in the safety and soundness of the housing finance system, the equitable and consistent regulatory treatment of all market participants, and the promotion of lending practices that create sustainable homeownership opportunities in support of vibrant communities and long-term wealth-building for families. For more information, visit [www.housingpolicycouncil.org](http://www.housingpolicycouncil.org).

<sup>2</sup> Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative, 90 Fed. Reg. 10583 (Feb. 25, 2025).

<sup>3</sup> 88 Fed. Reg. 21883 (Apr. 12, 2023), [2023-07233.pdf](#).

2. **CFPB and Department of Justice Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers under the Equal Credit Opportunity Act**<sup>4</sup>

This joint statement does not provide any clear guidance on how creditors may appropriately use immigration status in credit decisions, such as where an applicant is in the US on a temporary work visa or has no legal basis to be in the US. Specifically, the joint statement does not detail how creditors may use immigration status in assessing the likelihood of income continuation in ability-to-repay determinations, which are required under TILA/Regulation Z. This policy statement is not based on the best reading of the underlying statutory authority (Class (iii) in the Executive Order).

3. **CFPB Advisory Opinion: Real Estate Settlement Procedures Act (Regulation X); Digital Mortgage Comparison-Shopping Platforms and Related Payments to Operators**<sup>5</sup>

This advisory opinion is positioned as RESPA Section 8 guidance but concerns activity that is more appropriate for a UDAAP analysis. Moreover, in an attempt to update and modernize prior HUD guidance in this area, the advisory opinion misapplies this decades-old HUD guidance and meaningfully shifts aspects of RESPA Section 8 analysis that has formed via case law and agency guidance over the last several decades. This advisory opinion is not based on the best reading of the underlying statutory authority (Class (iii) in the Executive Order).

4. **CFPB Circular 2024-01: Preferencing and Steering Practices by Digital Intermediaries for Consumer Financial Products or Services**<sup>6</sup>

This guidance is noticeably silent on the impact that disclosure may have on the UDAAP analysis, which has been a key aspect in how other regulatory agencies weigh these UDAAP-like issues. This guidance details several ways industry may violate UDAAP prohibitions, but offers no practical, affirmative guidance on how industry may comply. This circular is not based on the best reading of the underlying statutory authority (Class (iii) in the Executive Order).

5. **CFPB Circular 2023-03: Adverse Action Notification Requirements and Proper Use of Sample Forms**<sup>7</sup>

Building upon prior problematic guidance in this area, CFPB ignores the plain text in Regulation B that creditors need not describe how or why a factor adversely affects an applicant. Regulation B simply requires disclosure of actual denial reasons and nothing more, which does not align with CFPB's specificity stance that "creditors must affirmatively explain their [credit denial] decision." This circular is not based on the best reading of the underlying statutory authority (Class (iii) in the Executive Order).

6. **CFPB Interpretive Rule: The Fair Credit Reporting Act's Limited Preemption of State Laws**<sup>8</sup>

This interpretive rule encourages states to strictly regulate credit reporting practices at a state level, which would only add to the complexity of complying with an increased load of patchwork state statutes, in addition to FCRA. The interpretive rule also ignores

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<sup>4</sup> 88 Fed. Reg. 71845 (Oct. 18, 2023), [2023-22968.pdf](#).

<sup>5</sup> 88 Fed. Reg. 9162 (Feb. 13, 2023), [2023-02910.pdf](#).

<sup>6</sup> 89 Fed. Reg. 17706 (Mar. 12, 2024), [2024-05141.pdf](#).

<sup>7</sup> 89 Fed. Reg. 27361 (Apr. 17, 2024), [2024-08003.pdf](#).

<sup>8</sup> 87 Fed. Reg. 41042 (July 11, 2022), [2022-14150.pdf](#).

developing case law where courts have openly questioned states' ability to ban reporting of consumer information that is expressly permitted by FCRA. This interpretive rule is not based on the best reading of the underlying statutory authority (Class (iii) in the Executive Order).

7. **CFPB Circular 2024-03: Unlawful and Unenforceable Contract Terms and Conditions**<sup>9</sup>

CFPB frames certain broadly accepted contractual provisions as unlawful deception but does not address the existence of these provisions in government promulgated form contracts that industry leverages in the mortgage space. For example, the circular takes issue with contractual language akin to “except where prohibited by applicable law”; however, HUD’s model mortgage notes and GSE form notes and security instruments are replete with this type of language. This circular is not based on the best reading of the underlying statutory authority (Class (iii) in the Executive Order).

8. **CFPB Circular 2022-03: Adverse Action Notification Requirements in Connection with Credit Decisions Based on Complex Algorithms**<sup>10</sup>

This circular recites commonly known aspects of ECOA/Reg. B adverse action notice requirements but does not offer industry any guidance to help meet such compliance obligations when leveraging AI in credit decisioning, which only increases uncertainty and stifles innovation in exploring evolving technology in offering consumer’s credit. This circular is not based on the best reading of the underlying statutory authority and significantly and unjustifiably impedes technological innovation (Classes (iii) and (vi) in the Executive Order).

9. **CFPB Interpretive Rule: Authority of States to Enforce the Consumer Financial Protection Act of 2010**,<sup>11</sup>

This guidance accurately outlines certain enforcement powers afforded to state regulatory agencies and attorneys general under the Consumer Financial Protection Act (“CFPA”); however, the broad authority noted by the CFPB in certain areas stretches the bounds of the CFPA – particularly, in the CFPB’s encouragement of states pursuing certain parallel proceedings that may arise out of the same industry conduct. This advisory opinion is not based on the best reading of the underlying statutory authority and it raises serious constitutional difficulties, such as exceeding the scope of power vested in the Federal Government by the Constitution (Classes (iii) and (i) in the Executive Order).

10. **CFPB Bulletin 2022-05: Unfair and Deceptive Acts or Practices That Impede Consumer Reviews**<sup>12</sup>

While contractual gag clauses and fake reviews are clearly inappropriate and illegal, the CFPB concludes the Bulletin with overly broad language regarding potential manipulation of consumer reviews being deceptive without clarifying what sort of actions industry may take on consumer reviews that are being used to harass industry participants or on reviews that otherwise include inappropriate language. This bulletin is not based on the best reading of the underlying statutory authority, and it raises serious constitutional

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<sup>9</sup> 89 Fed. Reg. 51955 (June 21, 2024), [2024-13581.pdf](#).

<sup>10</sup> 87 Fed. Reg. 35864 (June 14, 2022), [2022-12729.pdf](#).

<sup>11</sup> 87 Fed. Reg. 31940 (May 26, 2022), [2022-11356.pdf](#).

<sup>12</sup> 87 Fed. Reg. 17143 (March 28, 2022), [2022-06446.pdf](#).

difficulties, such as exceeding the scope of power vested in the Federal Government by the Constitution (Classes (iii) and (i) in the Executive Order).

HPC supports the President's Executive Order to root out unnecessary and burdensome administrative actions and firmly believes that the elimination of these sub-regulatory items would help to effectuate that worthy goal.

Thank you for your consideration of these recommendations. As you plan next steps, HPC would welcome the opportunity to engage with the CFPB on this initiative.

Yours truly,

A handwritten signature in black ink that reads "Edward J. DeMarco". The signature is written in a cursive style with a large, prominent initial "E".

Edward J. DeMarco  
President  
Housing Policy Council