American Bankers Association
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The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20006-4702

Dear Director Cordray:

The Bureau of Consumer Financial Protection (CFPB or the Bureau) recently released a new borrower education tool in conjunction with the "Know Before You Owe" initiative. The American Bankers Association (ABA) supports the Bureau's efforts to create resources that effectively communicate to consumers the importance of shopping for a mortgage as well as using trusted service providers for the closing process. However, ABA has critical concerns regarding the efficacy, expectation and transparency of this new interest rate tool. In light of the concerns outlined below, we urge the Bureau to reconsider the tool and remove it from the website pending that review.

- **Questionable Comparison Tool**: The total price for a mortgage loan includes important factors in addition to the interest rate quoted by the lender. The interest rate figure only reflects the amount that is paid by the consumer for the use of funds over a period of time. The price of a mortgage, on the other hand, includes many other components, including private mortgage insurance (if applicable), government insurance (if applicable), application and origination fees, flood insurance (if applicable), lock terms, appraisal costs, title insurance premiums and other factors. Chief among these factors are points that effectively prepay interest, which we find continues to be a primary contributor to differences in advertised interest rates. All of these costs are essential in calculating and comparing mortgage costs overall. Any consumer resource that ignores or diminishes the importance of these ancillary charges, or that fails to consider factors known to affect quoted interest rates, is incomplete and therefore inaccurate. Does the Bureau believe that figures that exclude significant transactional costs and interest prepayments can be considered an adequate shopping comparison tool for consumers?

- **High Potential for Inaccuracies**: From the limited information that has been made available to the public, it appears that the interest rate calculator does not include a broad enough sample of lenders to generate an accurate rate in any one area or locality. This problem is exacerbated when the calculator generates rates across multiple counties and municipalities. Currently, the CFPB website indicates the interest rate provided is generated from real lenders and is updated daily. The lenders sampled, though, only include "a mix of large banks, regional banks and credit unions," apparently leaving out all community banks, a segment that represents approximately a quarter of the national mortgage lending activity among banks.[1] This selective sampling skews the data and potentially results in incorrect information. Can the Bureau confirm that the sample of submitted interest rates is sufficiently robust to reliably reflect prices in any market area?

- **Inadequate Quality Control**: It is uncertain how the calculator's internal data is being collected from the "actual lenders," and how such data is being updated. Since this tool will function, and provide output, through the use of third party data that is submitted to the Bureau, the tool appears to be entirely dependent on the accuracy and precision of the tendered data. Does the Bureau have the quality assurance safeguards to guarantee the reliability and integrity of the reported data?

- **Questionable Pricing Calculation**: The ultimate price of a mortgage is dependent upon a complex interplay of various factors, including those identified by the Bureau on your webpage entitled *7 factors that determine your mortgage interest rate.* There are, however, additional factors that are not reflected in this list including, but not limited to, type of property (condominium, mobile home, etc.), primary residence versus investment property, and other factors. How is the Bureau sorting and/or aggregating all the pricing options to arrive to one single rate quote? Has the Bureau assured that the factors employed in the calculator are weighed in a fashion that is representative of lender underwriting standards across all markets and industry segments? It appears that the Bureau's tool relies heavily on the use of credit scores. Has the Bureau evaluated the consequence of such reliance, especially in comparison to methodologies employed by the GSEs and FHA/VA?

- **Incomplete Loan Types**: The calculator currently allows options for only three loan types—conventional, VA & FHA. This limited listing entirely overlooks various types of products that allow for customized lending in which community banks often specialize. This is especially true in the current mortgage environment, where ongoing legal, regulatory and guideline changes involving verification, documentation and underwriting have hampered applicants' ability to qualify for Fannie Mae/Freddie Mac loans, other secondary market financing, or government guaranteed/insured financing. In order to fully serve their communities, small banks have developed portfolio loans that supply very competitive and unique financing options for these borrowers. Such portfolio products are individually priced by each community bank, and include pricing factors that are unique to that institution and/or that locality. Did the Bureau take into consideration the niche and portfolio products that are offered by smaller community banking institutions?

- **Legally Questionable Presentation of Figures**: ABA would be remiss if it did not point out the obvious paradox that this borrower education tool would violate the CFPB's disclosure rules if a lender used it as an advertisement or mortgage calculator. Has the Bureau contemplated whether the rate checker tool runs counter to federal advertising laws, and

[1] Source: FDIC's Statistics on Depository Institutions as of September 30, 2014. Community banks are defined as $10 billion or less in total assets.

whether it is in breach of the policy objectives contained in the Real Estate Settlement Procedures Act and the Truth in Lending Act?

- **Likely Consumer Confusion**: The calculations generated by this Federal government tool will appear to consumers as officially sanctioned prices, and quite possibly as interest rate caps. Consumers will not use these calculated interest rates as mere guides or general benchmarks for shopping, but rather, consumers will perceive them as entitlements of the interest rates they ought to be receiving. This is an erroneous perception, and it will function as a significant potential source of misinformation to consumers. Whatever disclaimer the Bureau provides on its webpage, a consumer will view the CFPB calculator as an official imprimatur and expect that such rate must be made available to him/her. Does the Bureau intend that this tool be used as a rate-setting mechanism? Does the Bureau believe that consumers are well-served by price quotes not related to actual market products?

- **Misconstrues How Consumers Shop:** Shopping is important, consumers should learn good shopping skills, and the Bureau should encourage smart shopping. However, the Bureau appears to be encouraging consumers to treat every transaction as a de novo exercise. Instead, experienced consumers shop by renewing their information. Most consumers have prior shopping experiences and wisely have narrowed their "shopping ranges" based on that experience. The smart consumer shops to renew information, even if they are first-time home-buyers, rather than starting from scratch. Does the Bureau believe consumers should disregard what they have learned from their histories of financial shopping, or scrap choices they have made to consolidate financial relationships based on experiences of competitiveness, quality of service and trust? Does it make sense to encourage consumers to be constantly starting over, using a narrowly focused and potentially seriously flawed search engine?

We also observe that the Bureau lacked stakeholder input and allowed no chance for comment on the proposed tool. Lack of stakeholder input undermines the credibility of the project. ABA questions the urgency with which this tool was added to the website. It is unclear that this tool will be more reliable than what a consumer could glean from other websites on the internet.

In light of all the issues listed above, ABA requests that the borrower education tool be removed and reconsidered. ABA accepts that there is good intention in offering and/or disseminating to consumers responsible information relating to approximate interest rate levels. However, we join other financial services representatives in expressing deep concerns about a consumer resource that we believe will be inadequate and ineffective in properly assisting consumers as they shop for a mortgage loan.

Sincerely,

Robert R. Davis

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