March 5, 2012

By electronic delivery to:
http://www.regulations.gov

Mr. David Silberman
Acting Associate Director
Research, Markets & Regulations Division
Bureau of Consumer Financial Protection
1700 G Street, N.W.
Washington, D.C. 20006

Re: Notice of Streamlining Project and Request for Information; Docket No. CFPB-2011-0039

Dear Mr. Silberman:

The American Bankers Association[1] and the undersigned state bankers associations (collectively, the Associations) welcome the opportunity to respond to the Consumer Financial Protection Bureau's (Bureau) Notice of Streamlining Project and Request for Information.[2]

The Associations strongly support the Bureau's streamlining initiative – its commitment to identify provisions of the inherited consumer protection regulations that should be updated, modified, or eliminated because they are "outdated, unduly burdensome, or unnecessary."[3] Such excessive regulatory requirements adversely affect all of our members, significantly limiting their ability to serve their customers and to promote economic recovery and growth. We are committed to being fully engaged throughout the streamlining process, providing the Bureau with industry reaction to specific regulations under review and, where available, data and other information germane to the Bureau's cost benefit analysis.

As the Bureau recognizes, analyzing regulations and identifying appropriate provisions for streamlining is a major undertaking; good regulatory policy requires that it be an ongoing effort. A decade ago a streamlining exercise, required by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), extended over a three-year period and involved more than 500 bankers, consumer representatives, and other interested parties participating in sixteen outreach sessions and commenting on over 130 regulations.[4] Although the current

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[1] ABA represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its two million employees. The majority of ABA's members are banks with less than $165 million in assets.
[2] 76 Fed. Reg. 75825 (December 5, 2011).
[3] *Id.*
[4] See 72 Fed. Reg. 62036 (November 1, 2007).

streamlining initiative, which will involve a review of only fourteen consumer protection regulations, is a less ambitious undertaking than that undertaken pursuant to EGRPRA, nevertheless, it is being initiated at a time when the banking industry is struggling to keep pace with implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Moreover, ABA, state bankers associations, and many of our members were active participants in the 2003 - 2006 regulatory reduction effort and recall that it resulted in little noticeable regulatory reduction.[5] Indeed, in recent decades there has been a steady rise in regulatory burden, and all anticipate that Dodd-Frank Act implementation will bring an exponential increase—a reality confirmed by the Bureau's first final rule on remittances which according to the Bureau's own estimate will require more than 7.7 million employee hours to implement.[6]

The Associations remind the Bureau of these realities not to discourage initiation of the streamlining project, but rather to underscore the need for a pragmatic approach to the process and a commitment to regulatory simplification and clarity that extends beyond the streamlining initiative to inform all aspects of the Bureau's work. As we say, good regulatory policy requires a constant effort to reduce regulatory burden and update requirements. To that end, we offer comments that—

- address the need for a commitment to consistent supervisory standards and regulatory due process;
- suggest practical measures to make compliance with consumer protection regulations easier;
- identify our members' first priority for regulatory reform and simplification; and
- support certain other targeted streamlining candidates for consideration by the Bureau.

1. Ensure consistent supervisory standards and respect for the supervisory process

As stated above, the banking industry strongly supports the elimination of all outdated, unnecessary, or unduly burdensome regulations. We caution that this achievement and any efficiencies gained and passed on to consumers can be completely undermined unless the Bureau works to ensure the consistency of supervisory expectations and addresses emerging supervisory concerns through interagency deliberation and standard setting, not through individual agency guidance statements or the application of novel enforcement theories.

Our members share the Bureau's vision that greater transparency, simplicity, fairness, and accountability can be achieved by establishing common standards that are uniformly applied to all financial service providers as their business operations and consumer risk profiles warrant.

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[5] It bears noting that two of the regulatory streamlining candidates suggested by the Bureau were considered and supported by the banking industry during the EGRPRA review, yet nothing came of that effort. These include: (1) whether HMDA reporting thresholds under Regulation C should be changed, and (2) whether institutions whose privacy policies have not changed during the last twelve months should not be required to provide consumers with an annual privacy notice.

[6] 77 Fed. Reg. 6194 (Feb. 7, 2012).

Increasingly, however, this promise is being threatened by inconsistent supervisory standards being applied by various regulators based on safety and soundness grounds. We oppose a proliferation of disparate supervisory standards as they not only run counter to goals of regulatory streamlining but create compliance demands virtually impossible for banks to meet in a consistent way. Neither banks nor their customers are served by this variety of standards. Interagency unity is a must for effective consumer regulation.

The regulation and supervision of overdraft services demonstrates this phenomenon. As the Bureau is aware, the FDIC has adopted and the OCC has proposed supplemental "guidance" governing the management and oversight of debit card overdraft services. Thus, instead of one clear rule applicable to all overdraft protection programs, three different supervisory standards are emerging. The goal of ensuring uniformity so that consumers can readily understand and compare overdraft services across different financial service providers and bankers can compete fairly for depositors has been lost in this multiple, disunified effort.

The consequences of the existence of disparate supervisory standards should not be underestimated. Regardless of the issuing agency, each new statement of regulatory expectation sets in motion an industry-wide review and attempt to reconcile it with existing regulations and guidance. Next, institutions must consider the impact on their business model and must identify the operations, systems, and compliance adjustments that may need to follow. For many institutions, the cost of implementing the systems changes and controls means that they must raise fees or restrict product availability. Even for those institutions not directly impacted by particular guidance, the uncertainty about what it portends for future regulatory action discourages innovation and restricts access to financial products. Then, relevant changes must be communicated to consumers, including changes in consumer expectations or even in required consumer action. The Federal Reserve's changes in overdraft program rules, for example, required every consumer that wanted overdraft services to sign up anew for the service regardless of prior expressions of interest. Thus, it is the consumer who ultimately feels the impact of disparate standards and the proliferation of novel enforcement theories in the form of higher fees, decreased product availability, inconveniences, or all of the above.

We urge the Bureau to ensure that emerging supervisory concerns are addressed by interagency deliberation (working through the Federal Financial Institutions Examination Council) and that an opportunity for full public comment on the issues and consideration of all relevant data is provided. In this way, clear supervisory standards can be articulated and applied to all financial service providers. The failure to be steadfastly committed to this path will undermine prospective efficiencies gained by the streamlining initiative.

In a related vein, the Associations caution that liberal application of authority under section 1031 to prevent unfair, deceptive, or abusive acts or practices (UDAAP) or under section 5 of the Federal Trade Commission Act to prevent unfair or deceptive acts or practices (UDAP) will also threaten any gains realized through regulatory reduction. Again, recent experience with overdraft supervision demonstrates this effect. The FDIC is asserting that the practice of

charging an overdraft fee in certain “force pay” situations constitutes legal deception under the FTC Act.[7] Thus, its examiners are relying on UDAP theories to address circumstances that are fully covered by an existing regulatory authority, the Electronic Funds Transfer Act and Regulation E. Banks that contentiously sought to comply with that authority are being blindsided by assertions that charging an overdraft fee to customers who opted in constitutes legal deception.

We oppose this lack of regulatory due process for its inherent unfairness to the affected institutions and for the negative repercussions it will have on the entire banking industry and ultimately, on consumers. If UDAAP or UDAP can be used by examiners as a blank slate on which to create new supervisory standards without prior interagency deliberation and consensus and without advance notice to the industry, it will introduce debilitating uncertainty, discourage innovation, significantly increase costs, and ultimately, reduce access to financial products. These costs will far outweigh any benefits realized by the regulatory streamlining initiative.

The Associations strongly urge the Bureau to demonstrate its commitment to consistent supervisory standards and respect for regulatory due process so that the Dodd-Frank Act’s promise of clear rules understood by and applicable to all is realized. Indeed, we believe that taking a leadership role in ensuring supervisory consistency and regulatory due process is an essential predicate to the Bureau’s regulatory streamlining efforts. We understand that the Bureau’s touchstone must be consumer benefit, but clear and consistent rules similarly applied across the industry has to be a major element of consumer protection.

2. Practical suggestions to make compliance with consumer protection regulations easier

At the conclusion of the streamlining request for information, the Bureau asks the public to identify “practical measures it can take, apart from revising regulations, to make compliance with the inherited regulations easier.”[8] The Associations strongly support this line of inquiry; we believe that a commitment to simplify compliance should go hand-in-hand with regulatory reduction efforts.

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[7] The institutions being cited are those with a policy and practice of not paying ATM or one-time debit card transactions into overdraft, so-called “no-pay” banks. Prior to the Federal Reserve Board’s amendment of Regulation E, when presented with a force pay debit card transaction that overdrew an account, many no-pay banks charged the customer an overdraft fee. However, despite its name, this fee was not intended to be a true “overdraft” fee; rather, it was intended to discourage and penalize using the card contrary to bank policy. Accordingly, after the Board’s amendment of Regulation E, many banks that had a no-pay policy wanted to continue to charge customers for force pay overdraft transactions. As they read the Regulation E commentary issued in 2010, in order to do so they sought the customer’s opt-in using the Board’s model notice. The FDIC asserts that this is a deceptive practice because the opt-in notice provided to consumers does not explain that the bank does not operate an overdraft program and does not explain force pay transactions. Therefore, the FDIC believes that the bank has unfairly deceived customers into thinking they were opting into an overdraft service that provides coverage that would not be available unless they opted in. However, because there is no bank discretion in these force-pay cases, the FDIC concludes that no benefit has been provided; consumers who opted in paid a fee for the same result as those who did not opt in and paid no fee.

[8] 76 Fed. Reg. *supra* at 75827.

a. *Promote scalable compliance oversight and the publication of small bank compliance guides*

At the outset, we note that "top-down" regulatory creep – when rules and supervisory expectations applied to the largest and most complex banks are applied to all other banks – has been the source of much of the regulatory compliance burden. The Dodd-Frank Act threatens an explosion of top-down regulatory creep as targeted regulatory requirements intended for larger, more complex institutions may be applied to smaller, traditional banking operations. We urge the Bureau to disavow top-down regulatory creep in favor of a scalable or graduated approach to regulatory compliance expectations that is flexible enough to apply appropriately to all institutions in a form consistent with their size, business model, geography, and other relevant characteristics.

The Associations believe that enforcement of common rules does not mean one-size-fits-all, or as is increasingly being suggested, the simplistic two-sizes-fits-all model. Nor does it call for the adoption of arbitrary thresholds for application of regulatory requirements. Rather, the Bureau should promote scalable, or graduated, consumer compliance regulation and oversight that recognizes and affirmatively preserves the diversity of the financial services industry and assures that banks of many different sizes, business models, and risks will be able to offer competitive products and services to their customers. We urge the Bureau to use a graduated approach to setting supervisory standards that begins by defining baseline expectations for compliance with a particular regulation, clearly defining the goal to be achieved, and then developing appropriately flexible or scalable techniques to apply those standards appropriately within a diverse industry, based on an assessment of a bank's business model, the complexity of its operations, the nature of its charter, and other factors relevant to the inherent risk to consumers of its products and services. This is hard work to do, but it will yield a better result for consumers and for the banks that serve them.

To this end, one element of scalability could be found in compliance information provided by the Bureau to banks that do not have large compliance staffs. For example, we urge the Bureau to work with the prudential regulators and the industry to create a small entity compliance guide for every regulation it has inherited and those it promulgates in the future. Such a guide would not be simply a "plain English" summary of the rule. Instead, it should describe the baseline compliance program components and controls that regulators expect small entities to implement to meet regulatory obligations or supervisory expectations for any particular rule. Too often banks without any transaction violations are criticized for not implementing more complex controls than their operations or performance warrant. Consequently, such a guide must be built based upon the modest risk profile of a bank with a traditional product mix and a community oriented retail footprint. Simplified templates for policies, procedures, and other program components should be supplied for ready adoption and adaptation, as necessary. Moreover, banks that follow the guide should have a reliable expectation of supervisory acceptance and legal sufficiency.

To support scalable supervision, the Bureau should also articulate in each small bank compliance guide the factors it would consider relevant to a decision to initiate more involved supervisory expectations. Thus, the Bureau's expectations for graduated compliance program components and controls would also be clearly articulated (easing compliance for more complex institutions), and because they would be built upon the foundational requirements for institutions with a modest risk profile, the goal of ensuring supervisory consistency would be advanced.[9]

b. Report periodically about facts and compliance failures that result in enforcement actions

As discussed previously, the Associations urge the Bureau to respect regulatory due process by ensuring that emerging supervisory concerns are addressed through interagency deliberation and public notice and input rather than through "gotcha" enforcement actions. Using enforcement actions to articulate agency policy undermines regulatory due process. Enforcement actions rarely result in litigated outcomes. Rather they are consent accommodations made by providers with constrained resources in the face of an all powerful government bureaucracy that has chosen its target strategically. Typically, these agreements are drafted so that it is difficult to determine the conduct in issue, to identify policy, procedure, or control weaknesses, or to learn anything else that might instruct bankers on compliance with the law or regulation allegedly violated. We appreciate the confidentiality issues implicated; however, our members urge the Bureau to report periodically, about factors that have resulted in an enforcement action—but make clear when these do and do not have general applicability. We believe that the often elaborate solutions that are required as remedies in actual enforcement cases are not appropriate templates for the vast majority of banks.

3. Coordinated reform and streamlining of the mortgage lending regulations is the banking industry's first priority for the streamlining initiative

The Associations appreciate the fact that the Bureau initiated the regulatory review process with a simple request that stakeholders identify their streamlining priorities. As stated previously, it is imperative that the Bureau adopt a schedule for review of the inherited regulations that accommodates both the mandatory regulatory deadlines of the Dodd-Frank Act and the resulting constraints on stakeholder resources. The process would need to ensure the identification of specific and reasonable regulatory streamlining priorities and timeframes so that real and measurable regulatory reduction can be achieved.

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[9] Obviously, our focus is on simplifying *bank* compliance, but it bears noting that nondepository financial service providers will also benefit significantly from compliance guides. Most will be building regulatory compliance programs for the first time. By providing program templates, the Bureau will increase the likelihood that policies and procedures are created in even the smallest entities. This, in turn, should increase awareness and understanding of compliance expectations and improve regulatory compliance by nondepositories.

The Associations believe that this mandate requires the Bureau at this time to concentrate first on reducing regulatory burden associated with the mortgage lending regulations. We believe the starting point to streamline the mortgage area is not to let new reform create new conflicts, redundancies or confusion. In other words, "first thing: Do no harm!"

The housing crisis set in motion a plethora of mortgage-related regulatory proposals. The pace and poor coordination of mortgage lending rule-makings caused both borrower and lender confusion, ultimately making it harder for the banking industry to provide mortgage loans to qualified borrowers and slowing the recovery of the housing market. We urge the Bureau to develop a comprehensive plan to integrate and streamline of *all* of the mortgage-related rules, including those previously initiated by the Federal Reserve and those mandated by Title XIV of the Dodd-Frank Act. This process should reflect clearly the Bureau's commitment to identify outdated, unnecessary, or unduly burdensome regulations.

The Associations support the Bureau's efforts to date to simplify and integrate the consumer disclosures required under the Real Estate Settlement Procedures Act (RESPA) and the Truth-in-Lending Act (TILA). This project is an important first step toward regulatory streamlining. We commend the Bureau's approach of using consumer testing as the basis for the disclosure simplification process together with broad exposure of preliminary ideas before engaging in the formal rule-making process. This approach ensures that the changes are focused on consumer need and understanding. However, in response to each iteration of the "Know Before You Owe" project, the banking industry has noted its need to understand the regulatory context as well as how the anticipated RESPA-TILA rule changes will fit within the broader mortgage lending reforms mandated by Dodd-Frank. We reiterate that message and underscore the need for comprehensive reform that incorporates a commitment to regulatory simplification, a goal of major importance to borrowers and lenders.

Surprisingly, the Bureau's recent announcement of its Semi-Annual Regulatory Agenda suggests that the amendments to the escrow regulations required by sections 1461 and 1462 of the Dodd-Frank Act may not be considered in conjunction with RESPA-TILA integration.[10] It is difficult to comprehend why the disclosures relating to escrow accounts will not be incorporated into the broader mortgage reform initiatives. The escrow requirements are part and parcel of the disclosures that consumers need at closing, and their timing obviously must be coordinated with those disclosures. Moreover, sections 1461 and 1462 expressly amend TILA; therefore, the escrow amendments are fully encompassed by the Congressional mandate to merge and simplify RESPA and TILA-related disclosures. To proceed otherwise is inconsistent with the goal of regulatory streamlining. The Associations urge the Bureau to reconsider its plans for finalizing the escrow rule and to incorporate that work into RESPA-TILA integration and the broader mortgage lending reform and simplification initiative.

In addition to coordinating regulatory reform, we urge the Bureau to consider practical steps that will ease compliance and implementation. The Bureau should test any prototype disclosure

[10] *See* 77 Fed. Reg. 8034 (Feb. 13, 2012).

forms across the full range of mortgage products offered by lenders and settlement service providers of varying sizes and operating in different parts of the country. The prototypes must undergo wide ranging transactional testing because the disclosures must accommodate a wide range of mortgage products as well as the laws of every jurisdiction. Even with this testing, the Bureau would need to afford industry a sufficiently long implementation period so that changes can be applied fully and consistently. The Bureau should take notice of the recent RESPA reform implementation process under the auspices of the Department of Housing and Urban Development (HUD). We note that HUD issued its initial RESPA reform rule in November 2008, but it took HUD more than two years to publish the various guidance and clarification documents that were necessary to make the new rules workable. The Bureau should not underestimate, as HUD did, the myriad complications that arise from the transactional variances that exist across product lines and across the country.

Finally, just as we believe that the Bureau's first priority should be the development of a comprehensive plan to integrate and streamline mortgage lending, we believe that at this time the Bureau should accord relatively low priority to the design of a model credit card agreement. The Bureau should not waste limited staff resources on the design of a model credit card agreement that in effect is duplicative of the existing summary agreement required under Regulation Z, that will be complicated from a consumer perspective, and the legality of which will be doubtful. Credit card agreements and disclosures have recently undergone significant revision as a result of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act) and the Federal Reserve Board's changes to the credit card disclosure requirements under Regulation Z (Truth in Lending Act). The Credit CARD Act addressed the credit card practices that were the main subject of criticism and complaints. In addition, the Federal Reserve Board, after receiving comments from the public on three proposals and after intensive consumer testing, adopted new disclosure requirements that ensure that consumers receive information they need and want, in a format they will notice, and using words they understand. The streamlined disclosures are provided at every significant juncture – application, account opening, and change in terms – and include an industry-supported summary of the agreement. It is difficult to understand or to justify duplicating this effort by "encouraging" adoption of yet another document.

4. As resources permit, the Bureau should consider specific, targeted streamlining candidates that can deliver immediate burden reduction.

As stated previously, the Associations strongly support regulatory simplification and streamlining, and we pledge to work with the Bureau throughout what we expect to be an ongoing process to review each of the inherited regulations to identify outdated, unnecessary, or unduly burdensome regulations. We believe that a well-planned, measured, and steady program of review and revision will achieve more than a one-time exercise in burden reduction.

Because currently both public and private resources are being challenged to keep pace with Dodd-Frank implementation, we believe that it is unrealistic to think that anything more than

targeted regulatory streamlining can be accomplished at this time. Moreover, experience suggests that even targeted streamlining will fail if the initiative devolves into a broader regulatory review in which everything is fair game all at once. As the Bureau considers its schedule for 2013 and beyond, we urge the Bureau to be pragmatic in the selection and prioritization of streamlining candidates. We would recommend that, in order to develop credibility in this important effort, attention be focused on addressing regulatory burdens where this work will deliver real and immediate relief. The following streamlining candidates offer the opportunity for quick and targeted burden reduction; we encourage their consideration as early streamlining candidates:

a. ATM Fee Disclosure

We support elimination of the requirement for a physical notice to be posted on an ATM that a fee "will" or "may be imposed." Indeed, on February 7, 2012, ABA and six other trade groups asked the House Financial Services and Senate Banking Committees to amend the Electronic Funds Transfer Act's requirement for ATM operators to provide two separate notices regarding the imposition of a fee for use of the ATM, eliminating the requirement for a physical notice since the same information is provided on screen.

As noted in that letter, a physical notice may have played a useful role when Congress first enacted the statutory provision in the 1990s. At that time, off-premise ATMs were relatively uncommon, and some consumers might have been unaware that they could be charged a fee for using an ATM. Also, many ATMs were not capable of providing the notice electronically on the monitor. Since that time, off-premise ATMs have become common; over half of the more than 400,000 ATMs in the nation are now owned and operated by non-financial institutions. In addition, today, consumers expect to pay a fee at an ATM unless they are using an ATM owned or operated by the bank or credit union where they have their account or their financial institution has agreed to pay for the use of the ATM. Electronic notices fully inform customers, making the physical notices redundant at best.

Moreover, when the ATM disclosure requirements were adopted, ATM video monitors were much smaller and the images displayed were not sharp or crisp. Accordingly, there may have been a concern that some consumers would not be able to read the video disclosure. Today, ATM video monitors are much larger and display a sharp image. As the size of the video monitor has increased, the area in which a physical fee notice can be effectively placed has decreased.[11]

Thus, over time the consumer protection rationale for requiring two notices has disappeared, and the statutory and regulatory requirement for the physical notice is useful only to a growing number of class action plaintiffs attracted by the statute's potential damage award to a

[11] *See* February 7, 2012 letter from American Bankers Association, American Gaming Association, ATM Industry Association, Credit Union National Association, Electronic Funds Transfer Association, Independent Community Bankers of America, and National Association of Convenience Stores to the House Committee on Financial Services Senate Committee on Banking, Housing and Urban Affairs available at http://www.aba.com/aba/documents/news/ATMletter2812.pdf.

successful class action plaintiff of the lesser of $500,000 or 1% of the net worth of the ATM operator plus attorneys fees and costs should a physical notice not be readily apparent.[12] During the last several years, both the number and cost of these frivolous lawsuits has risen precipitously, particularly where vandalism or other causes have removed the notices placed by the financial firm. Class action lawsuits seeking damages have been filed in Michigan, Ohio, Pennsylvania, Texas, and other jurisdictions. Indeed, a few enterprising attorneys are "specializing" in these lawsuits. One Texas law firm has filed over 150 cases in Texas, Alabama and Tennessee; one Pennsylvania attorneys has filed 25 lawsuits, another has filed 21. It is only a matter of time before these nuisance suits spread throughout the country.

We will support efforts to convince the Congress to amend EFTA, but we also encourage the Bureau to make elimination of the regulatory requirement a streamlining priority.

b. Annual Privacy Notice

The banking industry supports the elimination of Regulation P's annual privacy notice requirement for banks that do not share personal information beyond what is permitted for regulatory exceptions, assuming that policy has not changed since the last notice. The industry recognizes the importance of clearly disclosing to customers bank policies for the treatment and sharing of nonpublic personal information. Banks post their privacy policies in all bank branches and online, and customers may request a copy in person, via phone, or email. Few financial disclosures are more readily available and accessible to interested consumers.

However, it is clear that after twelve years, the annual re-notification is of little value to consumers, is a burden to financial institutions, and is wasteful. Indeed, the policy's annual arrival creates confusion and stress for many consumers, particularly the elderly, who worry that the receipt of the notice must signal a policy change or require a response. Our members report that despite their repeated efforts to inform customers that the mailing is required by federal law, that the bank's privacy policy has not changed, and that no action is required on the part of the consumer, at least 10% of the opt-outs received each year are redundant, the processing of which wastes administrative resources. In addition, bank employees must expend time responding to customer complaints and allaying unnecessary anxiety. Finally, the annual notification is wasteful. Most banks deliver the policy as a statement insert; thus, one bank reports that it prints and mails eleven million policies for six million customers – nearly all of which are immediately discarded by customers.

[12] 15 U.S.C. §1693m.

c. Ability to Pay Credit Card Debt

We support amendment of the provision of Regulation Z, interpreting Credit CARD Act, that requires a credit card issuer to assess an individual borrower's ability to repay the loan.[13] Regulation Z should permit lenders and applicants over the age of 21 to rely on household income in order to obtain a credit card; the regulation should not require applicants to have "independent" income or assets. The Credit CARD Act specifically requires independent income for borrowers under the age of 21, but does not require it for those over 21.

Requiring independent income for all account holders ignores the statutory text and is contrary to congressional intent. We believe that "ability" to repay is not necessarily contingent on a borrower's independent assets or income; rather, assessment of a borrower's ability to pay may consider the income or assets the borrower controls, manages, or shares. Moreover, not allowing consideration of household income is inconsistent with fair lending laws that are intended to promote credit history building, access to credit, and financial independence for non-income producing spouses, who still tend to be women. We urge the Bureau to amend section 1026.51 of Regulation Z to permit household income to be included in the assessment of a borrower's (over the age of 21) ability to repay credit card debt.

Conclusion

Thank you again for the opportunity to share our views on the principles and priorities that should inform the Bureau's streamlining project. The Associations will provide additional suggestions as the Bureau progresses along the path of this initiative.

As we noted in the joint letter requesting an extension of time to file reply comments,[14] we seek to work with all relevant parties in an effort to identify areas of consensus on streamlining priorities and to discuss a schedule for review of the inherited regulations that makes the best use of public and private resources. We hope that the discussion will identify areas of consensus, and perhaps common solutions, among consumer and industry groups that will advance the regulatory streamlining initiative as well as everyone's ultimate goal – ensuring that the markets for consumer financial products and services operate fairly, transparently, and efficiently. We look forward to engaging the Bureau and the other banking agencies in these discussions.

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[13] 12 C.F.R. § 1026.51.

[14] February 10, 2012 letter to David Silberman *available at* http://www.aba.com/aba/documents/ebulletins/Compliance/2012/cl_ext_Streamlining2012Feb.pdf.

If you have any questions about matters raised in this letter, please contact Virginia O'Neill at 202-663-5073 or voneill@aba.com.

Respectfully submitted,

American Bankers Association
Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Heartland Community Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Illinois League of Financial Institutions
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association
Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
Washington Financial League
West Virginia Bankers Association
Wyoming Bankers Association