September 7, 2012

Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

Subject: High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X)

RIN 3170-AA12 Docket No. CFPB-2012-0029

Dear Ms. Jackson:

On behalf of NeighborWorks® America (also known as the Neighborhood Reinvestment Corporation) I want to thank the Bureau of Consumer Financial Protection for the opportunity to provide comments in regard to the Proposed Rule regarding “High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X)” as published in the Federal Register on Wednesday, August 15, 2012 (77 FR 49089).

These comments reflect the views of NeighborWorks America’s management, and do not necessarily represent the views of its board members, either collectively or as individuals.

NeighborWorks America is generally supportive of the Proposed Rule, but has several concerns specifically related to the proposed Housing Counseling amendments.

We are, first of all, pleased to see that the Bureau has recognized the important role that housing counseling can play in helping prospective borrowers obtain the most appropriate home and financing product for their situation.

We know from our extensive experience however (as explained more fully within this letter) that the best defense against mortgage delinquency and foreclosure is objective homeownership education and counseling before a borrower begins shopping for a home and selecting a mortgage product – or refinancing his/her home.

And, the most effective homeownership education and counseling is provided through objective, well-trained, HUD-approved housing counseling agencies that put the consumers’ and the communities’ interests first.

Our experience regarding the importance of borrowers (particularly first-time borrowers and borrowers considering a HOEPA loan or a negatively amortizing mortgage loan) receiving homeownership education and counseling before they begin shopping for a home and selecting a mortgage product, causes us to raise a serious concern in terms of the proposed requirement to require lenders “to distribute a list of homeownership counselors or counseling organizations to consumers within a few days after applying for any mortgage loan” (underlining added).
In our view, this puts counseling in the wrong place in the process as the two most important decisions have effectively ALREADY been made. Receiving counseling after the decisions of which property to purchase and how to finance the purchase have been made undermines the effectiveness of counseling and negates its critical purpose: to inform and empower the consumers to make decisions that are in their best interests.

We believe it is critically important, particularly for a prospective first-time borrower, to become an informed consumer before shopping for a home and selecting a mortgage product. And frankly, they should become an informed consumer before even talking with a real estate broker or a lender.

Further, the proposed regulation provides for the mandate of counseling, but does not provide a mechanism to fund the counseling.

Accordingly, NeighborWorks America would urge the CFP to implement a requirement for all first-time borrowers seeking anything other than a reasonably priced fixed-rate, fixed-payment mortgage with a term of 30 years) similar to HUD’s Home Equity Conversion Mortgage (HECM) program model. Under the HECM program requirements, no formal mortgage application can be taken by a lender until AFTER counseling has been received by the borrower, and the cost of such counseling is paid for by the lender. At a minimum, such counseling should be required of borrowers with modest incomes (perhaps below 80% of Area Median Income) and borrowers with credit scores below a defined level (perhaps below 720).

If the counseling requirements in the proposed rule are just to ensure the borrower knows they are getting a high cost loan, we do not believe this is a good use of counselors’ expertise. If that is the intention, at the very least, this service should be referred to as something other than counseling.

The proposed rule also includes no provision for borrowers to be informed of the availability of post-closing counseling or early delinquency intervention by counselors. We would urge the CFPB to consider including such a requirement.

A few other things for the CFPB to consider:

- With respect to deciding the effective date of these new regulations, two important considerations should be what is the scale of counseling availability that would be necessary to support implementation and how much lead-time counseling agencies would need to ramp-up to support the new regulations.

- If not crafted appropriately, the counseling requirement of the proposed rule could put the counseling field in an extremely disadvantageous position. If counselors are being asked to provide services only to borrowers who have decided to obtain “the worst loans,” we worry that this could reinforce already negative attitudes on the part of some who do not support pre-purchase counseling and education (questioning its impact and value) because putting counseling in a role of just being sure that borrowers understand they are obtaining a high-cost loan, would have little impact on the performance of these high-cost loans.

- There is a concern that some less-principled counseling entities or affiliated entities of mortgage brokers and lenders might ‘chase’ this high-cost market for the fees. Again, serving to undermine the legitimate purpose and role of counselors.
The CFPB should require or encourage mortgage originators to provide public awareness on the availability and value of homeownership education and counseling to consumers – in advance, not just at the time of a mortgage application.

We recommend and encourage that a line item for “counseling/education” fee be put on the HUD-1 Settlement Form as well as the revised Loan Estimate and Closing Disclosure Form, to send a clear signal of the legitimacy for counseling to be paid as a part of closing costs.

We urge that the proposed rule make some reference to the fact that counseling provided pursuant to this rule must conform to the National Industry Standards for Homeownership Education and Counseling.

[Note: Further information regarding the National Industry Standards for Homeownership Education and Counseling is provided in a following section of this letter.]

We commend the Bureau for recognizing that housing counseling agencies need income to pay for the provision of housing counseling services for high-cost loans and for permitting lender contributions for the delivery of these services.

We also commend the Bureau for proposing the prohibition of payment on the basis of the consummation of the loan. We agree that this has the potential for conflict of interest for the agency or the perception of conflict of interest. However, the rule does not address how counseling agencies should be paid for the work they do. And, we are concerned that the proposed prohibition against payment for consummated loans will be pointed to by some as a reason why mortgage originators cannot or should not pay for counseling services.

We would urge that the Rule include language which makes clear that mortgage originators can and should establish or support mechanism to provide fee-for-service payments to counseling agencies for the services which they provide.

Research on the Benefits Homeownership Education and Housing Counseling:
Nonprofit homeownership education and counseling organizations have been integral to extending mortgage financing to underserved populations and communities. Research (such as the studies cited below) and demonstrated experience has established that nonprofit homeownership education and counseling organizations improve the performance of home mortgage loans by:

- Providing objective homeowner education and counseling, and consumer outreach, to nontraditional or underserved markets;
- Reaching an expanded client base by crossing cultural and linguistic barriers as well as by building community trust, and often by providing access to special mortgage products – including below-market first- and second-mortgages; and
- Through significant education, preparation and consistent guidance, identifying mortgage-ready potential home buyers; and
- Providing ongoing tutelage and post-purchase counseling.
Although comprehensive research has been scarce, largely due to the fact that there has not (until recently) been a consistent standard in regard to what constitutes homeownership education and counseling, research has demonstrated that homeownership education and counseling can provide numerous benefits to consumers and lenders.

Homeownership education and counseling has been shown to reduce defaults, increase credit scores, get buyers into lower-cost mortgages, improve borrowers’ financial standing and increase the likelihood of troubled borrowers seeking foreclosure prevention assistance.

As research by Freddie Mac indicates, “A little knowledge is a good thing.” Pre-purchase education and counseling has been shown to significantly reduce default among borrowers. A study by Freddie Mac of nearly 40,000 homebuyers showed that borrowers who received individual counseling were 34% less likely to become 90 days or more delinquent on their mortgage, while those who received classroom-based counseling were 26% less likely to become 90-days delinquent.\(^1\)

This study also found that non-profit organizations were the most effective in reducing delinquencies and that education and counseling delivered either individually or in a classroom setting was more effective than counseling delivered through home study or provided over the telephone.

The positive impact of homeownership education and counseling on delinquency and default was also found in a series of studies by researchers at Ohio State University. Their first study found that pre-purchase counseling that focused on cash flow reduced the incidence of default.\(^2\) These researchers conducted two more studies, both of which showed decreases in mortgage default from pre-purchase counseling; the second study also shows a default rate for counseled borrowers that is two-thirds the rate for non-counseled borrowers.\(^3\) Finally, another group of researchers at Ohio State examined home mortgage loans in Chicago, finding that counseling dramatically improved mortgage performance, with a 15% decrease in delinquency rates and a 35% decrease in default rates.\(^4\)

The studies by researchers at Ohio State University found that homeownership education and counseling works to reduce delinquency and default through a number of mechanisms, including improving creditworthiness, measured by credit scores, and by helping the borrower get a better mortgage product.

---

A randomized study by researcher J. Michael Collins found that financial education improved credit scores by 21 points, on average, and showed a significant increase in savings.\(^5\)

Another study by researchers at Georgetown University of 14,000 individuals who received credit counseling found significant improvement in their creditworthiness, as measured by increased credit scores.\(^6\) This study found borrowers with initial scores in the lowest quintile improved their credit scores by an average of 36 points, relative to borrowers with the same scores in a comparison group. This increase represents a 38% reduction in the predicted frequency of a charge-off, repossession or bankruptcy.

Aside from improvements in credit scores, counseling can have other positive effects on loan product and behavior. A study by researchers at the City University of New York found that borrowers who received pre-purchase counseling had lower interest rates and took on less debt.\(^7\)

A study by the Center for Housing Policy found that homeownership education and counseling — through credit score changes and reduced debt — has also been shown to improve the purchasing power of households, improving their financial status.\(^8\)

Homeownership education and counseling, and foreclosure intervention counseling also help borrowers who are delinquent on their mortgages. An independent third-party evaluation of the National Foreclosure Mitigation Counseling Program (NFMC), administered by NeighborWorks America, by the Urban Institute found that:

- NFMC clients who received a loan modification lowered their monthly mortgage payment, on average, $176 more per month – which represents more than $372 million in annual savings to NFMC-counseled homeowners.
- NFMC-counseled homeowners were at least 67% more likely to remain current on their mortgage 9 months after receiving a loan modification.
- Homeowners who received NFMC counseling were nearly twice as likely to obtain a mortgage modification.

In an earlier study, researchers Robert Quercia and Spencer Cowan found that community-based foreclosure prevention programs were effective in reducing the time to resolution and rates of recidivism.\(^9\) This study also found that borrowers who received pre-purchase counseling were more likely to stay current on their loans.

---


The Federal Reserve Bank of Richmond reviewed a number of studies on the effectiveness of financial education, including many of the studies cited here, and concluded that there is a need for financial education and many existing approaches are effective. The Bank also concluded that these programs are most effective when tailored to the needs of recipients and include face-to-face time, whether one-on-one or in a classroom.

And, Alfred DelliBovi, President of the Federal Home Loan Bank of New York, in a July 22, 2011 article in National Mortgage News titled “Reclaiming the American Dream of Homeownership,” stated: “In 1995, we started our First Home Club, which is a program in which the Home Loan Bank and our members assist low income first-time homebuyers with grants to help offset downpayment and closing costs when purchasing a home. A key component of this program is the mandatory homeownership counseling participants must complete prior to purchase. This counseling helps buyers learn about the responsibilities and expenses of homeownership, and provides them with a better understanding of the type of home suitable to them. Since its inception, the First Home Club has seen a default rate of just 0.54%. The counseling has worked.”

The National Industry Standards for Homeownership Education and Counseling: (Homeownership Done Right™)

Homeownership counselors and educators play a vital role in building strong communities, and in improving the mortgage performance of borrowers. Unifying the industry on the issue of homeownership education and counseling standards has been a key step toward expanding that goal on a national level.

The National Industry Standards for Homeownership Education and Counseling have drawn upon a variety of sources, including existing standards used by the U.S. Department of Housing and Urban Development (HUD) and local, regional, and national housing counseling organizations. Input on the Standards was gathered by the Advisory Council for the National Industry Standards from many industry partners, including national lenders, GSEs, HUD, mortgage insurers, executive directors and counselors of local, regional, and national organizations.

The National Industry Standards for Homeownership Education and Counseling focus on a set of six core areas.

- Competency, including strong knowledge of the home-buying process, money management, etc.
- Training, with recommendations for a minimum number of hours of training.
- Code of Ethics and Conduct, which practitioners should sign and abide by.
- Skills, including communication and listening skills, adult education and facilitation skills.
- Operational Knowledge regarding programs, marketing, etc.
- Performance Standards for practitioners, which include standards curriculum, recordkeeping, and reporting.

The Standards documents were created by the Advisory Council for the National Industry Standards for Homeownership Education and Counseling. Members of this group include the following:

- Bank of America
- Chase
- Chrysalis Consulting Group, LLC
- Citi
- Community Development Corporation of Long Island, Inc.

Further information regarding the National Industry Standards for Homeownership Education and Counseling can be found at: http://www.homeownershipstandards.org/

**Rule Provides an Opportunity to Build a System to Support Homeownership Education and Counseling:**

Homeownership education and counseling services have been largely supported by public funds, charitable/philanthropic grants, cross-subsidization, and fee-for-service (paid either by the borrower or by the lender). There is a clear need to expand the availability of homeownership education and counseling and create a sustainable funding model for quality homeownership education and counseling.

Some regulated mortgage originators and servicers have provided limited support for homeownership education and counseling (through charitable/philanthropic grants, fee-for-service, or cost-reimbursement) but many other mortgage originators and servicers have not.

NeighborWorks America recommends that all mortgage originators and servicers should be required to both incentivize and financially support performance-based homeownership education and counseling, as a cost of doing business – and suggests that the Final Rule issued by the CFPB could be a vehicle to implement that.

Every borrower (and mortgage originator and servicer) would benefit from having access to homeownership education and counseling during the term of their mortgage and from having well-informed and foreclosure-resistant borrowers.

Mortgage originators should therefore provide incentives to consumers to complete quality homebuyer education and counseling. This could be in the form of lower interest rates, reduced closing costs/loan fees or other incentives. In addition, mortgage originators and servicers should fund or cost-share the cost of quality homebuyer education and counseling.

**Mortgage originator and servicers should also be required to develop a transparent way in which to track and report on the comparative performance of loans to borrowers who received quality homebuyer education and counseling, and those that did not.**

**Comments by NeighborWorks America**

Regarding the CFPB’s Proposed Rule regarding High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act; and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act.

September 7, 2012
**Homeownership Education and Counseling Should be Required for All Exotic Mortgages:**
NeighborWorks America encourages the CFPB to require homeownership education and pre-purchase counseling for first-time home buyers obtaining anything other than a 30 year, fixed-rate mortgage (with constant monthly payments and no balloon payments) – particularly for borrowers with modest incomes (perhaps below 80% of Area Median Income) and borrowers with credit scores below a defined level (perhaps below 720).

Since two of the most important decisions regarding a home purchase are the selection of the home and the financing product, we believe that pre-purchase education and counseling should happen at least 60 to 90 days before a loan application is taken by a loan officer.

**Background Information Regarding NeighborWorks America:**
NeighborWorks America was established by Congress in 1978 as the Neighborhood Reinvestment Corporation. The Corporation receives a direct annual federal appropriation. The corporation’s Board of Directors is made up of senior representatives of the federal financial regulatory agencies (the Federal Reserve; the Federal Deposit Insurance Corporation; the Comptroller of the Currency; the National Credit Union Administration) and the Secretary of HUD.

The primary mission of NeighborWorks America is to expand affordable rental and homeownership opportunities and to strengthen distressed urban, suburban and rural communities across America, working through a national network of local community-based organizations, known collectively as the NeighborWorks network.

The NeighborWorks network includes more than 235 nonprofit organizations, serving urban, suburban and rural communities across the United States -- in all 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

In FY 2011 alone, the NeighborWorks network generated nearly $4.2 billion in direct reinvestment in distressed communities across the nation, and helped more than 260,000 low- and moderate-income families purchase and preserve their homes, or live in safe, decent rental housing. NeighborWorks organizations also own and manage more than 90,000 units of affordable rental housing.

NeighborWorks America has a 30+ year history of facilitating lending to underserved borrowers – including lower income families, borrowers with impaired credit and others who would not normally qualify for a conventional mortgage.

By providing quality pre-purchase homeownership education and counseling, financial capability training and working with borrowers to improve their credit rating, improve their budgeting, and commit to a savings plan (including Individual Development Accounts and other vehicles), local NeighborWorks organizations are able to prepare foreclosure-resistant borrowers to qualify for reasonably priced traditional mortgage loans and achieve sustainable homeownership.

NeighborWorks America also knows that homeowners’ odds of success are increased even further when they have access to post-purchase counseling and homeowner education.

**Comments by NeighborWorks America**
Regarding the CFPB’s Proposed Rule regarding High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act; and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act.
NeighborWorks America is a nationally recognized leader in the fight against foreclosures. The corporation identified the problem of rising foreclosures over six years ago and, with the encouragement and support of its Board of Directors, created the NeighborWorks Center for Foreclosure Solutions -- an unprecedented partnership between leading nonprofit organizations as well as State, local and federal agencies and members of the mortgage lending and servicing sectors, that involves a comprehensive, multi-faceted approach to the foreclosure crisis.

NeighborWorks America is also the nation’s largest trainer of housing counselors – training more than **XX,XXX** counselor in __________________

**NeighborWorks America and the National Foreclosure Mitigation Counseling Program:**
NeighborWorks America also administers the National Foreclosure Mitigation Counseling Program, which has provided congressionally-appropriated funding to HUD-approved housing counseling intermediaries, State housing finance agencies and local NeighborWorks organizations – funding which has supported the work of more than 1,700 sub-grantees, and as of this date had provided foreclosure counseling to more than 1.4 million individuals and families in all 50 states, Puerto Rico and Guam.

Since December 2007, Congress has provided six appropriations totaling $619.87 to fund the NFMC program.

It is from this base of experience that NeighborWorks America provides these comments regarding the Proposed Rule.

**Closing Comment:**
NeighborWorks America would like to thank the CFPB for its efforts to eliminate abuses within the mortgage loan origination process, and for its consideration of these comments. The basic elements of the Proposed Rule are long overdue, and strongly supported by NeighborWorks America.

Please feel free to contact me, or Steven Tuminaro, Director of Public Policy and Legislative Affairs (at 202-220-2415 or stuminaro@nw.org) for any clarification of these comments.

Sincerely,

Eileen Fitzgerald
Chief Executive Officer

Comments by NeighborWorks America
Regarding the CFPB’s Proposed Rule regarding High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act; and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act.

September 7, 2012