Manufactured Housing Institute

July 13, 2018

The Honorable Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, D.C. 20552

RE: Follow-up Request to MHI Legislative Fly-In

Dear Acting Director Mulvaney:

Thank you for speaking before the Manufactured Housing Institute (MHI) and its members as part of MHI's Annual Legislative Fly-In. We understand how busy you are and appreciate you finding time in your schedule to join us and share your vision of the Bureau and its role going forward. It was a true honor for our members to have the chance to hear directly from you. We thank you for everything you do, and everything you have done, to support manufactured housing.

MHI is the only national trade organization that represents every segment of the factory-built housing industry. Our members include builders, suppliers, retailers, sellers, community owners and operators, lenders, and others who support our industry, including 50 affiliated state organizations. Manufactured homes are the most affordable homeownership option and the largest form of unsubsidized affordable housing in the United States. Today, approximately 22 million Americans live in manufactured housing.

Manufactured housing is an essential component in addressing America's affordable housing challenges, but the Bureau's regulations have jeopardized access to financing for manufactured housing. The rules have penalized home buyers who cannot access traditional mortgage financing needed for single-family homeownership or live in rural areas where affordable rental or site-built housing is scarce or non-existent. Additionally, many at-risk families have seen the equity they have diligently built up in their manufactured homes wiped out because lenders are not providing the financing needed for resale due to these regulations.

As we discussed with you, two slight revisions to the Bureau's regulations are needed to spur lending for manufactured housing without impacting existing consumer protections. This letter is in response to your recommendation that MHI follow up with you in writing detailing these two issues. We request your immediate assistance in adjusting the Bureau's policies so that financing is no longer unnecessarily limited for manufactured homes.

I. "High-cost" thresholds for smaller-dollar manufactured home loans under the Home Ownership Equity and Protection Act (HOEPA) should be adjusted so that manufactured home loans are not unfairly swept under this designation simply due to their small size.

II. The Bureau should provide immediate direction to MHI and also expedite regulatory revisions regarding the definition of a mortgage loan originator, so it is consistent with the amended definition under Section 107 of the "Economic Growth, Regulatory Relief, and Consumer Protection Act" (Pub. L. 115-174 § 107), including:

A. A No-Action Letter (NAL) that addresses the temporary discrepancy between the Bureau's current definition of *loan originator* under Regulation Z and the revised definition of *mortgage originator* under the Truth in Lending Act (TILA) and confirms that the Bureau will not pursue administrative action against any retailer or seller until Regulation Z is amended.

B. Consistent with Pub. L. 115-174 § 107, prompt promulgation of the required amendments to Regulation Z.

C. Clarification that employee sales commissions from the retail sale of manufactured homes are not counted in Qualified Mortgage (QM) and HOEPA calculations.

These priorities are critically important and with your assistance, we are confident that we can restore a robust financial market for manufactured housing. Each item is summarized below in greater detail.

I. Adjustment to HOEPA "High-Cost Mortgage" Thresholds

The HOEPA provisions of the Dodd-Frank Act (DFA) that established parameters for which mortgage loans are classified as "high cost" included more flexible annual percentage rate (APR) and points and fees provisions for small loans. This was in recognition of the simple mathematical fact that a fixed cost on a smaller loan translates into a higher percentage of the total loan amount. While the law gives the Bureau authority to raise the HOEPA triggers within specified ranges, the Bureau has not acted to make necessary adjustments and current HOEPA thresholds remain too restrictive.

Home Mortgage Disclosure Act (HMDA) data offers empirical evidence of the negative impact of the current HOEPA small loan thresholds, confirming that manufactured home lenders are not making loans with the "high cost" HOEPA designation. The HMDA data shows that lenders made such loans before the rules went into effect and they did not make them after. Specifically, the volume of manufactured home loans at $75,000 and below has decreased every year, with the lower loan sizes having a more pronounced decline.[1] In comparison, overall mortgage loan data (for manufactured homes and for

[1]

Year	Total # of MH Loans Originated	# of MH Loans Originated w/ Max Loan Amt of $75K	# of MH Loans Originated w/ Max Loan Amt of $50K
2014	113,477	83,452	55,668
2015	123,586	66,512	37,831
2016	132,156	65,160	36,060

all homes) experienced year-over-year increases. A simple adjustment to these thresholds is necessary to enable lenders to fully meet the demand for affordable financing for manufactured homes.

Most lenders today are unwilling to originate HOEPA "high-cost" loans. This is not unique to manufactured housing. However, the data confirms that the current thresholds have acutely impacted the availability of credit for manufactured housing. Many lenders who have stopped making loans for manufactured homes have said a primary factor in their reluctance to lend is the inability to stay under the HOEPA thresholds for smaller-dollar manufactured home loans.

The Bureau has authority to adjust the "high-cost" thresholds based on the credit needs of consumers. We urge the Bureau to use this authority to adjust the thresholds accordingly.

II. Definition of Mortgage Originator

The DFA established a definition of mortgage originator under which numerous consumer protection rules apply. The law also included several exceptions or exclusions so that certain types of persons and transactions were not inappropriately swallowed by the definition. Unfortunately, during the development and implementation of its definition, the Bureau adopted imprecise language, which did not recognize an exemption for manufactured home retailers and sellers.

The Bureau's definition created the risk that a manufactured housing sales associate who is neither taking a mortgage loan application nor advising customers on loan terms could still be considered a loan originator simply because the associate explains the home loan process. In response to this confusion, employees of manufactured home retailers and sellers were hesitant to provide consumers with even the most basic guidance and assistance during the home buying process because they did not want to risk engaging in loan originator activity. More than anyone else, this unintended consequence hurt consumers interested in learning more about how to purchase and finance manufactured homes.

On May 24, 2018, the President signed into law the "Economic Growth, Regulatory Relief, and Consumer Protection Act", which included a provision clarifying that manufactured housing retailers and sellers are not considered mortgage originators simply because they provide customers with assistance during the mortgage loan process. The law is now clear that manufactured home retailers and sellers should be excluded from the definition of mortgage loan originator.

In response to Section 107 of the "Economic Growth, Regulatory Relief, and Consumer Protection Act", MHI urges the Bureau to take the three actions below.

A. No-Action Letter

Per Acting Director Mulvaney's direction to MHI that we formally submit a No-Action Letter (NAL) request, and in compliance with the Bureau's "Policy on No-Action Letters," we have completed a NAL request as a separate attachment.

B. Prompt Implementation of Pub. L. 115-174 § 107

MHI requests that the Bureau takes prompt action to implement Pub. L. 115-174 § 107, which the President signed into law on May 24, 2018. This provision amends the definition of *mortgage originator* under

TILA to more clearly protect manufactured home retailers and sellers who answer customer questions or explain to customers the home loan process from being mischaracterized as a *mortgage originator*. Prompt action by the Bureau to amend its definition of loan originator under Regulation Z is needed so manufactured home retailers and sellers can provide limited assistance to customers interested in purchasing a manufactured home without being forced to comply with mortgage origination rules that only apply to mortgage loan originators.

A *mortgage originator,* as defined under the DFA, must comply with numerous consumer protections under TILA and Regulation Z. For example, they cannot receive compensation that is tied to loan terms (other than the amount of the loan) or compensation from both the borrower and the lender, and they cannot steer consumers to loan products that are not in their best interest. However, the DFA also established several exceptions to avoid the inappropriate classification of certain types of persons and transactions under this definition. Among these exceptions is that manufactured home retailers, sellers and their employees generally are not considered a *mortgage originator* if they:

1. Do not, for direct or indirect compensation or gain, take a residential mortgage loan application or offer or negotiate terms of a loan; and

2. Do not advise a consumer on loan terms (including rates, fees, and other costs).

Unfortunately, Regulation Z and its accompanying Official Interpretations narrowed these exceptions, creating the risk that a manufactured home retailer or seller who helps a consumer navigate the loan application process could be considered a mortgage loan originator and the employee's sales commission would be considered "points and fees." Consequently, a manufactured home loan would lose QM status, classifying it a "high-cost mortgage" loan.

Because of these concerns, many manufactured home retailers and sellers have been reluctant to provide even the most basic customer assistance to prospective home buyers, such as an explanation of the loan application process or the recommendation of local lenders who finance manufactured homes.

Pub. L. 115-174 § 107 addresses these concerns by more clearly excluding manufactured home retailers and sellers (and their employees) from TILA's definition of *mortgage originator*, so that a retailer or seller is not considered a mortgage loan originator merely because the retailer or seller assists a consumer in obtaining or applying to obtain a residential mortgage loan, as long as the retailer or seller:

1. Does not receive compensation or gain related to such assistance in excess of any compensation or gain received in a comparable cash transaction;

2. Discloses to the consumer in writing any corporate affiliation with any creditor and if the retailer or seller has a corporate affiliation with any creditor, provides information for at least one unaffiliated creditor; and

3. Does not directly negotiate with the consumer or lender on loan terms (including rates, fees, and other costs).

MHI asks the Bureau to act promptly to make the necessary amendments to Regulation Z to incorporate new bright-line standards that are consistent with TILA's revised exemption for manufactured home retailers and sellers.

C. Clarification that Sales Commissions Not Be Counted in QM and HOEPA Calculations

Manufactured home retailers, sellers and lenders are concerned that the Bureau's current definition of *loan originator* might unintentionally include in the calculation of QM or HOEPA points and fees or Annual Percentage Rate (APR) the commission an employee earns from the sale of a manufactured home, if the retailer, seller or lender is inadvertently classified as a mortgage loan originator. Such an outcome is not what Congress intended.

Compensation or gain from the retail sale of a manufactured home (specifically, compensation that does not depend on whether the transaction is a cash sale or financed through a lender) is not associated with the cost of the loan. It is contingent upon the sale of the manufactured home, not whether the buyer elects to finance the purchase or complete a cash sale.

Therefore, compensation or gain from the sale should not be counted in the QM or HOEPA points and fees or APR calculations. While this issue is not explicitly addressed in Pub. L. 115-174 § 107, it is important that the Bureau clarify that any compensation or gain from the sale of a manufactured home, such as an employee's sales commission, does not count toward QM or HOEPA points and fees or APR calculations.

Conclusion: Restore Access to Financing

Manufactured homes are the largest form of unsubsidized affordable housing in the United States and are an essential component in addressing America's current affordable housing challenges. They offer unmatched quality and affordability because of the technological advancements, efficiencies, and cost savings associated with the factory-built process.

MHI is eager to work with the Bureau to reduce the regulatory burdens harming consumers' ability to finance a manufactured home. The industry is fully committed to protecting consumers throughout the home buying process. The current regulations themselves have harmed consumers by inadvertently limiting financing for this affordable homeownership option. MHI is confident that the Bureau's assistance in addressing the aforementioned issues will help to restore a robust financial market for manufactured housing. We stand ready to work with you to improve access to credit for families seeking the American dream of homeownership through manufactured housing.

Sincerely,

Lesli Gooch, Ph.D.
Executive Vice President for Government Affairs & Chief Lobbyist

Bureau of Consumer Financial Protection
Manufactured Housing Institute's No-Action Letter Request
July 13, 2018

1. **The name of the entity requesting the No-Action Letter.**

   This Request for a No-Action Letter (NAL) is submitted by the Manufactured Housing Institute (MHI). MHI is submitting this request in compliance with the Bureau of Consumer Financial Protection's (BCFP) "Policy on No-Action Letters," dated February 18, 2016.

2. **A description of the consumer financial product involved, including: (i) how the product functions and the terms on which the product will be offered; (ii) the roles and relationships of all parties to transactions involving the product; and (iii) the manner in which it is offered to and used by consumers, including any consumer disclosures.**

   MHI's request for a NAL is not specific to a single product or service. Instead, MHI is requesting that the BCFP provide a NAL confirming that the BCFP will not pursue administrative action against any manufactured home retailer or seller for non-compliance with the current definition of *loan originator* under Regulation Z while the BCFP is in the process of revising this definition so that it is aligned with the revised definition of *mortgage originator* under the Truth in Lending Act (TILA), which was amended on May 24, 2018, with the passage of the "Economic Growth, Regulatory Relief, and Consumer Protection Act" (Pub. L. 115-174).

3. **The timetable on which the product is expected to be offered. NALs are not intended for either well-established products or purely hypothetical products that are not close to being able to be offered.**

   Manufactured home retailers already sell manufactured homes to consumers. MHI is requesting that the BCFP confirm in writing via a NAL that it will not pursue administrative action against any retailer or seller for non-compliance with the current definition of *loan originator* under Regulation Z as long as retailers and sellers are in compliance with the amended definition of *mortgage originator* under TILA.

4. **An explanation of how the product is likely to provide substantial benefit to consumers differently from the present marketplace, and suggested metrics for evaluating whether such benefits are realized.**

   Following passage of Pub. L. 115-174, which included the "Protecting Access to Manufactured Homes Act" (Pub. L. 115-174 § 107), *mortgage originator* under TILA was amended by adding an exception that excludes manufactured home retailers, sellers, and their employees from the definition. However, the definition of *loan originator* under Regulation Z, which is TILA's

implementing regulation, must still be amended to comply with the new definition of *mortgage originator*. The BCFP has advised us that the rulemaking process will take 12-18 months, which creates a temporary but substantial legal discrepancy that negatively impacts consumers as retailers and sellers struggle with implementation of the law.

As a solution, MHI is requesting that the BCFP confirm in writing that it will not pursue administrative action against any retailer or seller for non-compliance with the current definition of *loan originator* under Regulation Z as long as retailers and sellers are in compliance with the new definition of *mortgage originator* under TILA. This confirmation by the BCFP will give retailers and sellers the peace of mind needed so they can focus on answering consumer questions and helping them understand the home loan process.

5. **An explanation of potential consumer risks posed by the product, particularly as compared to other products available in the marketplace, and undertakings by MHI to address and minimize such risks.**

   Numerous federal and state consumer protection and safety and soundness requirements are already in effect, which limits consumer risk. However, the discrepancy between TILA's definition of *mortgage originator* and Regulation Z's definition of *loan originator* creates a temporary legal uncertainty that negatively impacts consumers interested in manufactured homes as retailers and sellers struggle to comply with the new law. To minimize consumer risk, MHI is requesting that the BCFP confirm in writing that it will not pursue administrative action against any retailer or seller because of this discrepancy until the rulemaking process is complete.

6. **A showing of why the requested NAL is necessary and appropriate to remove substantial regulatory uncertainty hindering the development of the product, including: (i) Identification of each of the specific provisions of the statutes and regulations regarding which a NAL is being requested, and a showing how each of these specific provisions of the statute(s) and regulation(s) should be applied to the product is substantially uncertain, including analysis of the relevant legal authorities and policy considerations; (ii) A showing of why the product's aspects in question should not be treated as subject to or precluded by the specific identified statute(s) and regulation(s), and/or how the proposed compliance of the product's aspects in question with the specific identified statute(s) and regulation(s) is appropriate; (iii) A showing of the product's compliance with other relevant federal and state regulatory requirements; and (iv) A showing of why the substantial regulatory uncertainty that is the subject of the request cannot be effectively addressed through means other than the requested NAL, such as modification of the product.**

   The current definition of *loan originator* under Regulation Z is not consistent with the amended definition of *mortgage originator* under TILA, which is creating uncertainty for manufactured home retailers and lenders.

   On May 14, 2018, the President signed into law Pub. L. 115-174. Section 107 of Pub. L. 115-174 amended TILA's definition of *mortgage originator*, exempting manufactured home retailers and

their employees from this definition as long as they do not engage in loan origination activity for compensation or gain that is in excess of any compensation or gain received in a comparable cash transaction and do not directly negotiate loan terms (including rates, fees, and other costs) with the consumer or lender. Retailers must also disclose in writing any corporate affiliation with any creditor, and if the retailer has a corporate affiliation with a lender and intends to refer the consumer to its affiliate, provide the information of at least one unaffiliated lender.

However, Regulation Z, which implements TILA, still restricts the activities manufactured home retailers may perform without the risk of being classified as a mortgage loan originator. These restrictions include activities now permitted under the revised statute, which materially impairs the ability of retailers to help consumers interested in purchasing a manufactured home.

The BCFP has not yet promulgated new regulations that are consistent with the revised statute. Notably, Regulation Z, at present, only excludes a retailer's employees from the definition of loan originator if they "[do] not take a consumer credit application, offer or negotiate credit terms, or advise a consumer on credit terms." 12 C.F.R. § 1026.36(a)(B) (2018). This activities-based test is narrowed further by the BCFP's official interpretations, which state that, to avoid being deemed loan originators, manufactured home retailers and their employees, may "not advise the consumer on specific credit terms, or otherwise engage in loan originator activity," including "[r]eferring a consumer to any person who participates in the origination process as a loan originator." 12 C.F.R. 1026.36 App. I, § 36(a)(1)(i)(B)(1); *compare* C.F.R. 1026.36 App. I, § 36(a)(1)(i)(A)(1) with C.F.R. 1026.36 App. I, § 36(a)(1)(i)(B)(4).

Regulation Z's current interpretation is now at odds with Pub. L. 115-174 § 107 and 15 U.S.C. § 1602(dd)(2)(C)(ii), thus making a manufactured home retailer a loan originator if anyone discusses credit terms with a consumer or recommends a lender likely to extend credit to the consumer. *See* C.F.R. 1026.36 App. I, § 36(a)(1)(i)(C)-1(i); C.F.R. 1026.36 App. I, § 36(a)(1)(i)(C)-1(iv).

Under TILA's amended definition, these activities are permitted and directly benefit consumers. For example, now retailers can explain to consumers down payment and monthly payment options that are within their price range, thus helping consumers determine if they can afford a manufactured home. In addition, retailers can help consumers identify lenders likely to extend them credit.

According to the Supreme Court, "[i]t is well established that, absent a clear direction by Congress to the contrary, a law takes effect on the date of its enactment." *Gozlon-Peretz v. United States*, 498 U.S. 395, 404 (1990) (citing *Robertson v. Bradbury*, 132 U.S. 491, 493 (1889); *Arnold v. United States*, 13 U.S. 104, 116−120 (1815)). Regardless of when BCFP's regulatory regime came into existence in relation to the amended TILA, "[t]he power of an administrative officer or board to administer a federal statute and to prescribe rules and regulations to that end is not the power to make law." *Manhattan General Equipment Co. v. Commissioner*, 297 U.S. 129, 134 (1996). Rather, it is "the power to adopt regulations to carry into effect the will of Congress as expressed by the statute, [as a] regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity." *Manhattan General*, 297 U.S. at 134.

Although we found no case law involving defendants who complied with a recently amended federal statute while simultaneously being out of compliance with agency regulations that had not yet been updated to reflect the amended statute, the aforementioned opinions suggest that a clearly laid out, unambiguous provision of a statute will always prevail over an agency regulation that is at odds with it. The Ninth Circuit held that "[w]hile regulations may impose additional or more specific requirements, they cannot eliminate statutory requirements." *Hunsaker v. Contra Costa County*, 149 F.3d 1041, 1043 (9th Cir. 1998) (citation omitted). The change to TILA contained in Pub. L. 115-174 § 107, confirming that a mortgage loan originator "does not include any person who is . . . a retailer of manufactured or modular homes," is a statutory requirement that no agency can eliminate via regulation, or a lack thereof.

In a landmark opinion, the Supreme Court laid out a two-part test for determining when Congress has delegated legislative authority to executive agencies, holding that an agency's interpretation will be afforded deference so long as "Congress has not directly addressed the precise question at issue," and "the agency's answer is based on a permissible construction of the statute." *Chevron U.S.A. v. NRDC*, 467 U.S. 837, 843 (1984). However, if "Congress has directly spoken to the precise question at issue [and] the intent of Congress is clear, that is the end of the matter; for the court, *as well as the agency*, must give effect to the unambiguously expressed intent of Congress." *Chevron*, 467 U.S. at 842 (emphasis added). Moreover, "[i]f Congress has explicitly left a gap for the agency to fill, there is an express delegation of authority to the agency to elucidate a specific provision of the statute by regulation. Such legislative regulations are given controlling weight unless they are arbitrary, capricious, or manifestly contrary to the statute. *Id.* at 844−45. The amendment to TILA contained in Pub. L. 115-174 § 107 is an unambiguous expression of Congress's intent to exclude manufactured home retailer employees from the definition of a loan originator. Pub. L. 115-174 § 107 has closed any gap that may have existed in the past, and Regulation Z, which in its current form is contrary to the statute, cannot be given controlling weight.

The Supreme Court also has held that "deference is especially appropriate in the process of interpreting the Truth in Lending Act and Regulation Z," and that "[u]nless demonstrably irrational, [agency] opinions construing the Act or Regulation should be dispositive." *Ford Motor Credit Co. v. Milhollin*, 444 U.S. 555, 565 (2001). In that case, however, the issue in question—disclosure of the creditor's acceleration policy—was "not governed by clear expression in the statute" like the exemption for manufactured home retailers is in Pub. L. 115-174 § 107. Therefore, any agency action or regulation that is contrary to this provision may be demonstrably irrational under *Milhollin*. Alternatively, because 12 C.F.R. § 1026.36(a) implements a superseded statute, rather than interpreting or implementing current statutes, *Milhollin* simply is inapplicable.

When the Dodd-Frank Act (DFA) was passed, it contained a provision specifying that the provisions of DFA which amended TILA would become effective once the implementing regulations took effect. *See* H.R. 4173, 111th Cong. § 1400(c)(2) (2010) ("[A] section, or provision thereof, of this title shall take effect on the date on which the final regulations implementing such section, or provision, take effect."). However, "[a] section of this title for

which regulations have not been issued on the date that is 18 months after the designated transfer date [July 21, 2011 shall take effect on such date." H.R. 4173, 111th Cong. § 1400(c)(3).

This provision, by its terms, applies only to the effective date of the initial regulations, not those subsequently in effect. Such a statement in Pub. L. 115-174 § 107, if one had been included in the bill, would prevent the provision from taking effect until the BCFP amends the regulation and its Official Interpretations, as no regulation currently implements it.[1] However, there is no such provision contained in Pub. L. 115-174 § 107. Consequently, the amendment's effective date is May 24, 2018.

While the BCFP has already confirmed that it will amend its regulations in compliance with the Administrative Procedures Act, we were advised that the rulemaking process will take 12-18 months. MHI is concerned that this temporary legal inconsistency will negatively impact manufactured home retailers and lenders as they struggle to navigate this uncertain regulatory environment. Consequently, MHI is requesting a statement of no-action confirming that the BCFP will not pursue administrative action against any retailer or salesperson for acting as a *loan originator* within the meaning of the definition in Regulation Z until the BCFP amends its definition of *loan originator* so that it is aligned with the amended definition of *mortgage originator* under TILA.

7. An affirmation that the facts and representations in this request are true and accurate.

MHI affirms, to the best of its ability, that the facts and representations made in this request are true and accurate.

8. A commitment by MHI to provide information requested by the staff in its evaluation of the request.

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[1] TILA requires that "[CFPB] prescribe regulations to carry out the purposes of [TILA], [and that] such regulations may contain such additional requirements, classifications, differentiations, or other provisions . . . to effectuate the purposes of this title to prevent circumvention or evasion thereof, or to facilitate compliance therewith." 15 U.S.C. § 1604(a) (2018).

This provision dovetails with § 1639b(e). That provision provides:

> (e) Discretionary regulatory authority.
>
> > (1) In general. The Bureau shall, by regulations, prohibit or condition terms, acts or practices relating to residential mortgage loans that the Bureau finds to be abusive, unfair, deceptive, predatory, necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section and section 1639c of this title, necessary or proper to effectuate the purposes of this section and section 1639c of this title, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections, or are not in the interest of the borrower.
> >
> > (2) Application. The regulations prescribed under paragraph (1) shall be applicable to all residential mortgage loans and shall be applied in the same manner as regulations prescribed under section 1604 of this title.

These provisions delegate to the Bureau broad rule making authority. Clarification of and limits on manufactured home retailer employee conduct may occur through the rule making process in the future. However, those regulations would be prospective and are not germane to the issue of the effective date of Section 107.

MHI will provide additional information as requested by the BCFP in its evaluation of this request.

9. **A description of data that MHI possesses, and data it intends to develop, pertaining to the factual bases cited in support of the request and a statement of any undertaking by MHI, if the request is granted, to share appropriate data regarding the product with the BCFP, including data regarding the impact of the product on consumers. This description should also address MHI's intentions regarding consultation with the BCFP in its plans for development of additional data.**

   MHI has no plans to develop any specific data in connection with this request; however, MHI will work with the BCFP to answer any specific questions.

10. **Commitments that, if the request is granted, MHI will not represent that the BCFP has: (i) licensed, authorized or endorsed the product, or its permissibility or appropriateness, in any way; (ii) determined, or provided an interpretation, that the product is or is not in compliance with legal or other requirements, or has been granted an exception, waiver, safe harbor, or comparable treatment; or (iii) granted NAL treatment with respect to any aspect of MHI's request or any provision of law other than those expressly addressed in the NAL.**

    MHI agrees that, if its NAL request is granted, it will comply with the statement above.

11. **An affirmation that, to MHI's knowledge (except as specifically disclosed in the request), neither MHI nor any other party with substantial ties to transactions involving the product is the subject of an ongoing, imminent, or threatened governmental investigation, supervisory review, enforcement action, or private civil action respecting the product, or any related or similar product; and an undertaking promptly to notify the BCFP (unless the request for a NAL has been withdrawn or denied) of any such governmental investigation, supervisory review, enforcement action, or private civil action that is initiated or threatened.**

    MHI affirms that, to its knowledge, it is not the subject of an ongoing, imminent, or threatened governmental investigation, supervisory review, enforcement action, or private civil action. However, MHI cannot be reasonably expected to know these intimate details about all of its members.

12. **An affirmation that (except as specifically disclosed in the request) MHI and its principals have not been subject to license discipline, adverse supervisory action, or enforcement action with respect to any financial product, license, or transaction within the past ten (10) years.**

    This question is 'Not Applicable.' MHI, as the trade association representing the manufactured housing industry, does not manufacture or sell manufactured homes and does not offer financial products or services to consumers.

13. **A statement specifying whether the request is limited to a particular time period, to a particular volume of transactions, or to other limitations.**

    This request shall remain in effect until the BCFP, in accordance with the Administrative Procedures Act, amends its definition of *loan originator* under Regulation Z, aligning it with the amended definition of *mortgage originator* under TILA.

14. **A description of any consumer safeguards MHI will employ, although they may not be required by law, if a NAL is issued, including any mitigation of potential for or consequences of consumer injury. The description should specify the requester's basis for asserting and considering that such safeguards are effective. The description should also address any future study MHI will undertake to further evaluate the effectiveness of such safeguards.**

    Numerous federal and state consumer protection and safety and soundness requirements are already in effect and Pub. L. 115-174 § 107 will have limited impact on them. MHI continues to answer questions and inquiries from its members about what Pub. L. 115-174 § 107 means for their business.

15. **If a request for confidential treatment is made, this request and the basis therefore should be included in a separate letter and submitted with the request for a NAL. MHI is advised to specifically identify data that it believes to be confidential supervisory information that should be shielded from public disclosure.**

    This question is 'Not Applicable.'