



# The State of South Carolina Department of Consumer Affairs

2221 DEVINE STREET, STE 200  
PO BOX 5757  
COLUMBIA, SC 29250-5757

**Commissioners**  
David Campbell  
Chair  
Columbia  
Eboni S. Nelson  
Vice Chair  
Columbia  
Mark Hammond  
Secretary of State  
Columbia  
Caroline Ballington  
Conway  
Carlisle Kennedy  
Leesville  
W. Fred Pennington, Jr.  
Taylors

Carri Grube Lybarker  
Administrator/  
Consumer Advocate

*Celebrating Over 40 Years of Public Service*

July 2, 2018

Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
Docket No. CFPB 2018-0013  
1700 G Street NW  
Washington, DC 20552

**RE: Bureau Guidance and Implementation Support**

Dear Ms. Jackson:

The South Carolina Department of Consumer Affairs (“SCDCA”) is pleased to offer comments in response to the Consumer Financial Protection Bureau’s (“CFPB” or “Bureau”) Request for Information regarding the Bureau’s Guidance and Implementation Support. SCDCA is the state’s consumer protection agency. Established in 1974, SCDCA is responsible for the administration and enforcement of Title 37 of the South Carolina Code of Laws, the Consumer Protection Code. Central to SCDCA’s mission is protecting consumers from inequities in the marketplace by educating them and businesses on their respective rights and responsibilities.

SCDCA helps formulate and modify consumer laws, policies, and regulations; resolves complaints arising out of the production, promotion, or sale of consumer goods or services in South Carolina, whether or not credit is involved; and promotes a healthy competitive business climate with mutual confidence between buyers and sellers. Overall, SCDCA protects consumers while giving due regard to those businesses acting in a fair and honest manner.

### Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, 124 Stat. 1376 (2010) (“Dodd-Frank”), created the Bureau, and set forth its overarching purpose, which is to implement and enforce federal consumer financial law consistently so that “markets for consumer financial products and services are fair, transparent, and competitive.”<sup>1</sup> Dodd-Frank also required certain offices to be established within the CFPB, including the Office of Fair Lending and Equal Opportunity, to coordinate efforts with other federal agencies and state

<sup>1</sup> Section 1021(a), 12 U.S.C. § 5511(a).

<b>ADMINISTRATOR</b> Tel.: 803-734-4233 Fax: 803-734-4060	<b>PUBLIC INFORMATION</b> Tel.: 803-734-4296 Fax: 803-734-4060	<b>CONSUMER ADVOCACY</b> Tel.: 803-734-4200 Fax: 803-734-4060	<b>ENFORCEMENT/ INVESTIGATORS</b> Tel.: 803-734-4200 Fax: 803-734-4287	<b>CONSUMER COMPLAINTS</b> Tel.: 803-734-4200 Fax: 803-734-4286	<b>ID THEFT UNIT</b> Tel.: 803-734-4200 Fax: 803-734-4229	<b>PROCUREMENT &amp; ACCOUNTING</b> Tel.: 803-734-4200 Fax: 803-734-4299
---	--	---	--	---	---	--



regulators as appropriate.<sup>2</sup> Additionally, Dodd-Frank required the CFPB to ensure that “consumers are provided with timely and understandable information to make responsible decisions about financial transactions” and that “markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.”<sup>3</sup>

### Bureau Guidance Materials

Since 2011, the Bureau, acting as the primary federal agency responsible for providing clarity on regulatory requirements for consumer financial products and services, has provided an ample amount of guidance through supervisory guidelines, bulletins, webinars, speeches, and various other avenues. As an example, the Bureau issued copious informal guidance on regulations, including what is commonly known as the TILA-RESPA Integrated Disclosure or the “TRID” rule.<sup>4</sup> Such guidance is critical because the TRID rule contains multiple technical disclosure requirements that may seem ambiguous when applied to specific transactions; however, the Bureau issued informal guidance in an effort to ease industry concerns about such ambiguity<sup>5</sup> and provided for a consistent approach to the rule by regulators operating in other federal agencies and at the state level.

SCDCA appreciates the Bureau’s efforts in informing affected parties through various avenues. We encourage the Bureau to continue its efforts to provide guidance on regulatory requirements. There are several long-standing federal agencies that have established procedures in place for the issuance of advisory opinions and interpretive guidance we have found beneficial and which may be of use in the review of the Bureau’s current processes.<sup>6</sup> Ensuring items are updated frequently and providing a formal request to revisit an interpretation or interpretive rule are measures SCDCA would encourage be included in any process to allow the full benefit of the guidance to be reaped by interested parties.

By issuing interpretive rules without the use of the “notice and comment” process, providing aids and guidance materials, the Bureau is effectively providing timely, reliable guidance for affected entities and fulfilling its duty as the regulator charged with interpreting applicable consumer financial protection laws. The informal guidance helps to ensure compliance through educating industry and assisting state regulators in fulfilling their statutory duties of administering and enforcing certain federal laws.

---

<sup>2</sup> Sections 1013 (c), (d), (e), (g); 12 U.S.C. § 5493(c), (d), (e), (g). *See also* 12 U.S.C. § 5495.

<sup>3</sup> *See id.* §§ 5511(b)(1), (5).

<sup>4</sup> *See* <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/tila-respa-disclosure-rule/>.

<sup>5</sup> *See* Letter from former CFPB Director Richard Cordray to David Stevens, President and CEO, Mortg. Bankers’ Ass’n (December 29, 2015).

<sup>6</sup> For example, *see* Federal Trade Commission, Guidance from the Bureau of Competition on Requesting and Obtaining an Advisory Opinion, *available at* [https://www.ftc.gov/system/files/attachments/competition-advisory-opinions/advisoryopinionguidance-bctextjune2011\\_update\\_links\\_oct\\_2015.pdf](https://www.ftc.gov/system/files/attachments/competition-advisory-opinions/advisoryopinionguidance-bctextjune2011_update_links_oct_2015.pdf). *See also*, 12 CFR 16.30 (2005) (regulation describing the process for obtaining interpretive advice from the Office of the Comptroller of the Currency).



---

Guidance Notification

SCDCA encourages the Bureau to increase its educational efforts beyond the Bureau's own website when issuing industry guidance or revising such materials. To increase industry awareness, as well as awareness by other consumer protection agencies, SCDCA encourages the Bureau to establish schedules delineating guidance documents under construction or review/revision by the Bureau, as well as anticipated dates of publication.

Conclusion

SCDCA appreciates the opportunity to comment on the Bureau's Request for Information regarding Bureau Guidance and Implementation Support and encourages the Bureau to preserve its commitment to informing and educating regulated entities about their responsibilities in the financial marketplace and providing guidance for state regulators to ensure consistency in the application of federal laws. Should you have any questions pertaining to our comments, please feel free to contact me at 803-734-4233.

Best Regards,

A handwritten signature in blue ink that reads "Carri Grube Lybarker".

Carri Grube Lybarker, Esq.