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December 17, 2013

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

Re: Docket No. CFPB-2013-0029, Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies

Dear Ms. Jackson:

On behalf of the Consumer Data Industry Association ("CDIA"), I want to thank you for allowing us an opportunity to comment on the Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies ("Proposed Policy Statement" or "Statement").

On behalf of our consumer reporting agency members we offer several points. First, we thank the Bureau and the other Agencies for preventing the Proposed Policy Statement from creating new EEO law and for not imposing any new legal requirements on regulated entities. Second, CDIA and its members recognize the value of a diverse workforce and we welcome the spirit of policies that promote diversity. Third, while the Dodd-Frank Act sets a clear prohibition on the Agencies from enforcing civil rights laws, this full prohibition is not but should be completely recognized in the Proposed Policy Statement.

CDIA was founded in 1906 and is the international trade association that represents some 200 consumer data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, check verification, fraud prevention, risk management, employment reporting, tenant screening and collection services.

CDIA members comply with the requirements of federal, state, and local equal employment opportunity laws whenever they apply and wherever they apply. Successful businesses are often successful, at least in part, because they see value in and benefit from a workforce that is diverse. We embrace diversity and opportunity for all and we generally support those that seek to further diversity in American workplaces.

As noted in the Federal Register summary accompanying the Proposed Policy Statement,

Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ('Dodd-Frank Act' [or 'Dodd-Frank']) directed the establishment of an Office of Minority and Women Inclusion ('OMWI Office') in [the federal banking agencies, including the Consumer Financial Protection Bureau ('CFPB')].¹

The Dodd-Frank Act sets a clear prohibition on the Agencies² from enforcing civil rights laws. This full prohibition is not completely recognized in the Proposed Policy Statement, but it should specifically acknowledge the weight of the statutory prohibition.

We know, of course, that the Dodd-Frank Act prohibits assessments of diversity policies and practices of entities regulated by the agency from being "construed to mandate any requirement on or otherwise affect the lending policies and practices of any regulated entity, or to require any specific action based on the findings of the assessment."³ We appreciate the clear proclamation made in the Proposed Policy Statement that the

assessment [of the diversity policies and practices of entities regulated by the agencies that is] envisioned by the Agencies is not one of a traditional examination or other supervisory assessment. Thus, *the Agencies will not use the examination or supervision process in connection with these proposed standards.*⁴

Even though the Proposed Policy Statement limits the reach of the Agencies, the Dodd-Frank Act goes even further. The additional reach of Dodd-Frank should be fully incorporated in to the Proposed Policy Statement. Under Dodd-Frank,

[t]he responsibilities [to establish an OMWI] *do not include enforcement of statutes, regulations, or executive orders pertaining to civil rights, except each Director shall coordinate with the agency administrator, or the designee of the agency administrator,*

¹ 78 Fed. Reg. 64052 (Oct. 25, 2013), citing Public Law 111–203, 124 Stat. 1376, 1541 (July 11, 2010), codified as 12 U.S.C. § 5452.

² Agencies means the Office of the Comptroller of the Currency ("OCC"); Board of Governors of the Federal Reserve System ("Board"); Federal Deposit Insurance Corporation ("FDIC"); National Credit Union Administration ("NCUA"); Bureau of Consumer Financial Protection ("CFPB"); and Securities and Exchange Commission ("SEC").

³ Public Law 111–203, § 342(a)(2)(C), codified as 12 U.S.C. § 5452(a)(2)(C).

⁴ 78 Fed. Reg. 64054.

regarding the design and implementation of any remedies resulting from violations of such statutes, regulations, or executive orders.”⁵

There is a difference between not using the Proposed Policy Statement in the “examination or supervision process” (as in the Statement) and not “enforce[ing] statutes, regulations, or executive orders pertaining to civil rights” (as in the Dodd-Frank Act). The Proposed Policy Statement should fully reflect the limits imposed by the Dodd-Frank Act to make clear that *not only* will the Agencies *not* use the examination or supervision process in connection with these proposed standards, but that the Agencies will also not enforce statutes, regulations, or executive orders pertaining to civil rights.

We hope that this information is helpful to you. Please do not hesitate to contact us with questions or comments.

Sincerely,



Eric J. Ellman
Senior Vice President, Public Policy and Legal Affairs

⁵ Pub. L. 111-213, § 342(a)(3), codified as 12 U.S.C. § 5452(a)(3) (emphasis added).