NCLC®
NATIONAL CONSUMER LAW CENTER®

FOR IMMEDIATE RELEASE: November 20, 2013

CONTACTS: Jan Kruse, jkruse@nclc.org or 617.542.8010;
Diane Thompson, dthompson@nclc.org or 618.466.5867;
Andrew Pizor apizor@nclc.org

CFPB'S NEW MORTGAGE DISCLOSURE RULES DISAPPOINT

Statement of National Consumer Law Center at CFPB Hearing in Boston

BOSTON Today, the Consumer Financial Protection Bureau (CFPB) unveiled its long-awaited new mortgage disclosure forms at a public hearing in Boston. National Consumer Law Center Executive Director Willard P. Ogburn testified at the hearing. "We congratulate the CFPB on substantial improvements to mortgage loan disclosures," said Ogburn. "However, we urge the CFPB to make additional improvements to allow consumers to choose the cheapest loan using the disclosures before the rules become effective in August 2015."

The CFPB was tasked under the Dodd-Frank Act with combining two different federally mandated disclosure forms and adding additional disclosures. The new forms provide a wealth of analysis of the loan terms and provide information in a much clearer format than current disclosures. However, the forms do not highlight the annual percentage rate (APR) — a simple cost comparison that could protect consumers from abusive loans and avoid confusion in pricing comparisons.

The CFPB's summary release of its testing results demonstrates that the new disclosures help consumers understand closing costs, which is an important improvement. But the testing does not show whether the new form enables consumers to adequately evaluate the combined cost of a loan, factoring in both closing costs and interest rate.

The APR is a key measure of the total cost of credit, reflecting both fees and interest. Disclosure of the APR has been linked to a reduction in the cost of credit in the market. An academic study using a version of the CFPB's forms showed that putting the APR prominently on the first page substantially improved consumers' ability to choose the lowest cost loan. The APR is on the first page on the current Truth in Lending Act (TILA) disclosure form. But the final version of the CFPB's form buries this key disclosure on page 3, making it less likely that most consumers will find it and recognize its importance. Instead, the first page of the proposed form highlights the amount of cash the borrower will need to bring to closing — a useful fact, surely, but rarely the key variable in pricing between two loans. This focus on the cash to close could be abused by lenders who seek to focus consumers on short-term rewards with come-ons, such as "*No Cash to Close!"*, rather than long-term risk and pricing.

Other elements of the new rule also weaken the disclosures. When the CFPB issued the proposed rule in 2012, it reiterated the Federal Reserve Board's 2009 proposal to strengthen disclosure by providing that all closing costs, including title insurance, would be included in the APR. This proposal would have made the APR a more accurate measure of all the costs of the loan. It also would have reduced litigation risk by simplifying an overly complex set of disclosure rules. Instead of moving to this simplified disclosure now, the CFPB has allowed the existing complex rules to remain in place, saying it will review the rules in five years. Although the CFPB expressed concern that including all costs in the APR would result in reduced availability of certain kinds of loans, there is no evidence that better disclosure restricts access to credit. Instead, clear disclosure creates a more transparent and well-functioning market, which enables consumers to avoid abusive lenders.

Today's final rule also pulls back from the CFPB's proposal to require lenders to provide new disclosures and an additional three-day waiting period whenever the disclosed loan terms change. Instead, the final rule requires re-disclosure before closing in only a limited set of circumstances. The result? Consumers could again be faced with bait-and-switch offers at the closing table, at a point in time when very few consumers, with the moving van waiting, will be able to challenge the changes.

We urge the CFPB to close these gaps in the rule before its effective date in August 2015.

###