

## United States Senate

WASHINGTON, DC 20510

The Honorable Gene Dodaro  
Comptroller General  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

March 31, 2017

Dear Comptroller Dodaro:

On March 21, 2013, the Consumer Financial Protection Bureau (CFPB) issued a bulletin titled “Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act” (Bulletin)<sup>1</sup>. I write to seek your determination of whether the Bulletin constitutes a “rule” for purposes of the Congressional Review Act (CRA).

With limited exceptions, the CRA defines a “rule” as follows:

*‘[R]ule’ means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing[.]*<sup>2</sup>

Based upon this broad definition, the Government Accountability Office has rightly pointed out that “agency pronouncements may be rules within the definition of 5 U.S.C. § 551, and the CRA, even if they are not subject to notice and comment rulemaking requirements under section 553.”<sup>3</sup>

Though the CFPB did not pursue notice and comment, the Bulletin appears to be generally applicable, prospective in nature, and designed to interpret law. For these reasons, I respectfully request that you evaluate whether or not the Bulletin is a “rule” under the CRA. Because the CFPB is currently applying it assiduously, with meaningful consequences for lenders and borrowers alike, please respond determinatively by June 1, 2017.

Sincerely,



Pat Toomey  
U.S. Senator

<sup>1</sup> CFPB Bulletin 2013-02, available at [http://files.consumerfinance.gov/f/201303\\_cfpb\\_march\\_-Auto-Finance-Bulletin.pdf](http://files.consumerfinance.gov/f/201303_cfpb_march_-Auto-Finance-Bulletin.pdf)

<sup>2</sup> 5 U.S.C. § 804(3)

<sup>3</sup> B-323772, Sept. 4, 2012