

SECTION I: INITIAL STATEMENT BY CHASE PURSUANT TO SECTION E.1.b OF THE BUREAU'S POLICY ON NO-ACTION LETTERS

Chase submits this application under Section E.1.b. of the CFPB's Policy on No-Action Letters ("NAL Policy"), which permits applicants to seek a No-Action Letter ("NAL") based on an existing NAL Template; and instructs such applicants to (i) identify that the application is based on an existing NAL Template; and (ii) describe how offering or providing its product or service is consistent with the framework described in that NAL Template.

Chase is submitting this Application for a NAL based on the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") September 10, 2019 NAL Template issued to the United States Department of Housing and Urban Development ("HUD NAL Template").

SECTION II: CHASE'S APPLICATION FOR A NO-ACTION LETTER PURSUANT TO SECTIONS A AND E.1.b. OF THE BUREAU'S POLICY ON NO-ACTION LETTERS

1. The identity of the entity or entities applying for the No-Action Letter.

Chase, in its capacity as a mortgage lender, hereby submits this application for a NAL under Sections A and E.1.b of the NAL Policy. Consistent with the HUD NAL Template, Chase intends to enter into certain arrangements ("Housing Counseling Funding Agreements" or "Agreements") with housing counselors that participate in HUD's Housing Counseling Program¹ (each a "Participating Counseling Agency") to provide consumers ("Clients") with counseling services. These Agreements will be subject to those conditions specified in the HUD NAL Template, including that: (i) the parties enter into a Memorandum of Understanding ("MOU") reflecting the terms of the Housing Counseling Funding Agreement; and (ii) the MOU is compliant with certain HUD requirements to which the parties adhere.²

In connection with these activities, and as specified in the HUD NAL Template, Chase certifies that:

1. Any HUD-required MOU between Chase and a Participating Counseling Agency pursuant to a Housing Counseling Funding Agreement between the same parties will include the following terms, which will be disclosed to mutual Clients:
 - The Client will choose between comparable products from at least three different lenders;
 - The funding derived from the Agreement will be based on services rendered, not on the amount, terms or conditions of any mortgage loan or related transaction; and
 - No endorsement, sponsorship or other preferential treatment will be conveyed to Chase for entering into the Agreement.
2. The payment(s) provided by Chase to a Participating Counseling Agency pursuant to any MOU will not exceed a level that is commensurate with the services actually provided.

¹ These Program requirements are identified in 24 C.F.R. Part 214.

<https://www.hudexchange.info/resource/4757/24-cfr-part-214-housing-counseling-program-final-rule/>.

² These MOUs will comply with 24 C.F.R. Part 214, HUD Handbook 7610.1 REV-5, and Section 106 of the HUD Act of 1978 (12 U.S.C. 1701x).

3. The payment provided by Chase to a Participating Counseling Agency pursuant to any MOU will be reasonable and customary for the area.
4. Any MOU entered into by Chase and a Participating Counseling Agency contains a certification from the counseling agency that the counseling agency is a Participating Counseling Agency and that the counseling agency will notify Chase of a status change to inactive, terminated or withdrawn; and
5. Chase will provide a copy of any MOU to the CFPB if requested by the CFPB.

2. A description of the consumer financial product or service in question, including (a) how the product or service functions, (b) the terms on which it will be offered, and (c) the manner in which it will be offered or provided, including any consumer disclosures.

As indicated above, Chase intends to enter into Housing Counseling Funding Agreements with housing counselors that participate in HUD's Housing Counseling Program to provide consumers with counseling services. Chase notes that the consumer financial product or service it intends to offer is substantially identical to the consumer financial product or service described in the HUD NAL Application and therefore, incorporates that description by reference.

Chase intends to enter into Agreements with Participating Counseling Agencies that are part of the NeighborWorks America network.³ JPMorgan Chase & Co. has had a strong relationship with NeighborWorks America for more than ten years. We have provided philanthropic support for various programs focused on community development, housing, small business development, and financial health. Our philanthropic support helped NeighborWorks and the housing counseling industry pioneer the National Industry Standards for Homeownership Education and Counseling. We have also partnered on trainings, particularly for housing counselors, provided capacity building support, and have worked with local NeighborWorks network organizations on a number of initiatives. Note, however, that following the initial pilot that Chase intends to expand our relationships with Counseling Agencies beyond NeighborWorks.

According to these Agreements, Participating Counseling Agencies will provide pre-purchase homebuyer education and/or counseling to Clients. Participating Counseling Agencies provide a variety of programs designed to make home buying and ownership successful, some of which include:

- First-time homebuyer credit 101;
- Homeownership keys to success; and
- Renters guides.⁴

Every counseling session requires an analysis of the Client's unique financial situation. Such an analysis may include a review of the Client's income, expenses, spending habits and the establishment of a household budget that the Client can affordably sustain. Participating Counseling Agencies will often use this information to assist the Client with determining whether they may want to consider buying a home, or whether renting may be the better option.

Counseling services may take place in the office of the Participating Counseling Agency, at an alternate location (for example a Client's home), or through an alternative format, as long as the

³ NeighborWorks America is a congressionally chartered, nonpartisan nonprofit with a network of nearly 250 independent, nonprofit organizations. www.neighborworks.org

⁴ Links to these programs are available here: https://www.hud.gov/program_offices/housing/sfh/hcc/hcc_home

alternative format or location is mutually acceptable to the housing counselor and client. Alternative formats can include telephonic counseling or remote counseling systems designed using Skype technology, video cameras and the internet. Skype technology systems can also be used to deliver group education workshops and sessions. Regardless of the setting or format, counseling activities must be limited to the geographic area specified in the Participating Counseling Agency's approved housing counseling work plan. For example, Participating Counseling Agencies may only offer telephone counseling to clients in their approved geographic area.

3. An explanation of the potential consumer benefits of the product or service

Chase notes that an explanation of the potential consumer benefits of this consumer financial product or service is substantially identical to the explanation provided on this issue in the HUD NAL Application and therefore incorporates that explanation by reference.

Additionally, Chase believes that Clients who receive homeownership counseling are better positioned for success for three primary reasons. Counseled clients are:

- More sophisticated and knowledgeable;
- Better prepared to apply for a home loan; and
- Less likely to default post-closing.

These conclusions are supported by industry research. In 2016, the Urban Institute studied⁵ NeighborWorks America's homeownership education counseling program⁶ to answer three pressing questions:

- Who uses the program;
- Where could the program be of greatest use?
- How effectively does the program improve loan performance?

The study found that the clients who received pre-purchase education were more likely to be African American, Hispanic, low income and female than the general population of home purchase borrowers. The study also suggested that counselors may be of the greatest use in locations with both a high real denial rate and a relatively good match between income and house prices (rather than places where home prices are often unaffordable, such as San Francisco). Finally, the study found that buyers who receive homeownership education and counseling achieve significantly better loan performance than

⁵ Copy of the study is available here: <https://www.urban.org/sites/default/files/2000950-neighborworks-americas-homeownership-education-and-counseling-who-receives-it-and-is-it-effective.pdf>

⁶ NeighborWorks' nationwide network offer homeownership education and counseling program throughout the country. NeighborWorks organizations are required to provide a homeownership education and counseling program or establish a partnership with an organization that meets the minimum requirements of homeownership education and counseling, as defined by NeighborWorks America for its National Homeownership and Lending Programs. The requirements include using a specifically approved curriculum, an approved online provider or classroom setting, and providing eight plus hours of training and/or education (including a minimum of 1 hour of individual counseling). Organizations are required to provide details on their homebuyer education classes, including agendas and curricula, the length of classes (number of meetings, number of classroom hours) and attendance.

those without. All other things being equal, delinquency rates of 90 days or more were 16 percent lower.⁷

Chase believes that Clients who otherwise would fall into the high real denial rate category are the types of Clients who would be most helped by the housing counseling under the Agreements made possible by the requested NAL.

4. An explanation of the potential consumer risks posed by the product or service, and how the applicant intends to mitigate such risks.

Chase notes that an explanation of the potential consumer risks posed by the product or service at issue for purposes of this application, and how those risks are managed and minimized, is substantially similar to the explanation provided on this issue in the HUD NAL Application and therefore incorporates that explanation by reference.

Chase recognizes that one of the most important financial decisions that many individuals and families will make is whether or not to purchase a home. With that in mind, Chase believes that the housing counseling consumers would receive pursuant to the Agreements are an important part of informing that decision and, as a result, minimizing Clients' future risk of default.

Chase intends to launch a pilot program in which Housing Counseling Funding Agreements are entered into with Participating Counseling Agencies in pilot geographies so that Chase can closely monitor the results and ensure that all of the terms of the Agreement are being upheld and that Participating Counseling Agencies receive reasonable market value for their services. Based on research findings that counseling may be of the greatest use in locations where home prices are affordable, Chase intends to focus upon cities where there is a relatively good match between income and house prices. Chase intends to closely monitor and ensure that the Participating Counseling Agencies adhere to the HUD housing counseling program requirements. These requirements include those specified in 24 CFR 214, particularly 214.300 and .303 which define counseling services and performance criteria, including the avoidance of conflicts of interest, and client disclosures as well as those included in Chapter 6 of the HUD Housing Counseling Handbook 7610.1,⁸ which further defines expectations, including nondiscriminatory practices, RESPA compliance, and client confidentiality.⁹

All Agreements will be subject to the same controls and reviews that apply to any other arrangement Chase enters into that could implicate Section 8 of RESPA.

5. An identification of the statutory and/or regulatory provisions under which the applicant seeks a No-Action Letter and an explanation of why a No-Action Letter is needed, such as

⁷ <https://www.urban.org/sites/default/files/2000950-neighborworks-americas-homeownership-education-and-counseling-who-receives-it-and-is-it-effective.pdf> NeighborWorks America's Homeownership Education and Counseling: Who Receives It and Is It Effective? p. 7.

⁸ HUD Housing Counseling Handbook 7610.1 REV-5 (May 10,2010). Available at: hudexchange.info/resource/4905/housing-counseling-handbook/

⁹ *Id.*, Chapter 7, Section 7-5 Lender Funded Counseling Services requires that: "Once a housing counseling agency has decided to enter into a relationship with a particular lender, HUD requires that [the housing counseling agency] enter into a Memorandum of Understanding, signed by both parties to formalize [the] relationship." The agreement must: "Outline the terms of [the] agreement to ensure compliance with RESPA requirements and additionally the two following terms should also be included in the agency's MOU: 1. The client will choose between comparable products from at least 3 different lenders; and 2. The fee income is based upon services rendered, NOT on the amount of the loan." (emphasis in original)

uncertainty or ambiguity regarding the application of the identified statutory and/or regulatory provisions to the product or service in question.

Chase notes that an explanation of the statutory and/or regulatory provisions under which Chase submits this application and an explanation as to why a No-Action Letter is needed, such as uncertainty or ambiguity regarding the application of the identified statutory and/or regulatory provisions to the product or service at issue, is provided in the HUD NAL Application. Therefore, Chase incorporates that identification and explanation by reference.

Consistent with the HUD NAL Template, Chase is seeking a NAL stating that: unless or until terminated by the Bureau as described in the NAL, the Bureau will not make supervisory findings or bring a supervisory or enforcement action against Chase under:

- (a) Section 8 of the Real Estate Settlement Procedures Act¹⁰ (RESPA) and section 1024.14 of Regulation X¹¹
- (b) Its authority to prevent unfair, deceptive, or abusive acts or practices,¹²

for including and adhering to a provision in the Housing Counseling Funding Agreements with Participating Counseling Agencies that conditions Chase payment for the housing counseling services on either loan commitment or loan funding, even if that provision or the parties' adherence thereto could be construed as a referral (as such term is used in RESPA section 8(a) and defined in Regulation X, § 1024.14(f); provided that the level of payment for the housing counseling services does not exceed a level that is commensurate with the services provided and is reasonable and customary for the area.

6. If an applicant wishes to request confidential treatment under the Freedom of Information Act, the Bureau's role on Disclosure of Records and Information, or other applicable law, this request and the basis therefor should be included in a separate letter and included with the application.

n/a

7. If an applicant wishes the Bureau to coordinate with other regulators, the applicant should identify those regulators, including but not limited to, those that have been contacted about offering or providing the product or service in question.

n/a

¹⁰ 12 U.S.C. 2607.

¹¹ 12 CFR § 1024.14.

¹² 12 U.S.C. 5531, 5536. Implicit in the statement under clause (b) is that the Bureau has not determined that the acts or practices in question are unfair, deceptive, or abusive.