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November 21, 2022

By Overnight Mail and Electronic Filing

The Honorable Scott S. Harris
Clerk of the Court
United States Supreme Court
One First Street, NE
Washington, DC 20543

Re: *Consumer Financial Protection Bureau, et al. v. Community Financial Services Association of America, Limited, et al.*, No. 22-448

Dear Mr. Harris:

The Court docketed the petition in the above-referenced case on November 14, 2022. The brief in opposition is currently due on December 14, 2022.

Pursuant to Supreme Court Rules 15.3 and 30.4, respondents respectfully request a 30-day extension until January 13, 2023, to file their brief in opposition. Counsel for petitioners has represented that the government does not oppose this request.

The extension of time is warranted in light of the press of other business for members of the core litigation team, including in this Court oral argument on November 28, 2022, in *Percoco v. United States*, No. 21-1158; a petition-stage reply to be filed on December 21, 2022, in *O'Connor-Ratcliff v. Garnier*, No. 22-324; and a merits reply brief due on December 30, 2022, in *Glacier Northwest, Inc. v. International Brotherhood of Teamsters*, No. 21-1449, followed by oral argument in that case on January 10, 2023. A 30-day extension is particularly warranted because the government chose to file its petition more than 60 days before it was due, advancing a lengthy merits argument far more extensive than the one it presented below, including new historical research. See Pet. App. 1a (judgment of court of appeals entered on October 19, 2022); Pet. 10-11 (“[T]he United States is filing this petition less than one month after the decision below”); compare Pet. 11-23, with Govt. C.A. Br. 50-52.

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Respondents are also planning to file a cross-petition seeking review of the Fifth Circuit's rejection of other challenges to the rule at issue. That cross-petition is due on January 17, 2023, 90 days after the judgment below. Because the filing of a cross-petition in mid-January would likely defer the Court's consideration of this case until after its January 6, 2023 conference regardless of whether any extension is granted for respondents' brief in opposition, the government will not be prejudiced by a 30-day extension to allow respondents to file their opposition on January 13. Instead, this 30-day extension until January 13 would facilitate an orderly resolution of both petitions. If the extension is granted, respondents plan to file both their brief in opposition and their cross-petition on January 13, 2023.

Respondents understand that, consistent with the government's desire to have the case heard this Term (Pet. 30-31), the government plans to file its brief in opposition to respondents' cross-petition early enough to allow this Court to consider both petitions at its February 17, 2023 conference and then, if certiorari is granted, to expedite merits briefing to permit argument and decision this Term. As respondents will detail in their brief in opposition to certiorari, it is neither necessary nor appropriate to resolve the significant and novel questions presented here this Term (regardless of whether the Court were to grant certiorari at the January 6 or February 17 Conference), given that (i) the judgment in this case only vacates a single agency rule that never went into effect, (ii) the government remains free to seek stays of relief in future cases if the decision below were extended in ways that more significantly impact the agency, and (iii) the parties and the Court would benefit from briefing, arguing, and deciding this case in a more deliberate fashion than even a January grant would permit. Nevertheless, to facilitate this Court's ability to consider both petitions at the February 17 conference, respondents agree to waive the 14-day waiting period under Rule 15.5 for distributing the cross-petition and the government's brief in opposition to the Court.

Sincerely,

/s/ Noel J. Francisco

Noel J. Francisco

Counsel of Record for Respondents

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cc: Elizabeth B. Prelogar, Solicitor General
Counsel of Record for Petitioners (by overnight mail)