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June 12, 2019

The Honorable Kathleen Kraninger
Director
Consumer Financial Protection Bureau
Comment Intake
1700 G Street NW
Washington, DC 20552

RE: Comments on Proposed Rulemaking on Home Mortgage Disclosure; RIN 3170-AA76

Dear Director Kraninger:

The Independent Community Bankers of America ("ICBA")[1] welcomes the opportunity to respond to the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") notice of proposed rulemaking ("NPR") to amend Regulation C provisions that relate to Home Mortgage Disclosure Act ("HMDA") implementation. The proposed amendment increases the threshold for reporting data about closed-end mortgage loans and would extend the 500 open-end lines of credit reporting threshold to January 1, 2022, and then set the threshold to 200 following that expiration.

ICBA appreciates the Bureau taking proactive steps to provide regulatory relief for community banks that are saddled with the costly task of collecting HMDA data in their small, often rural, communities. Most community banks are, by definition, locally owned and operated institutions with strong ties to the customers and communities they serve. These local banks continue to thrive because they service and provide loans to all eligible customers. Community bank residential mortgage lending enables many first-time home buyers to achieve the American dream of homeownership. As relationship-based lenders, community banks also explore all loan options—including home equity lines of credit and second mortgages—to find the best fit for each borrower.

[1] The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 52,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 760,000 Americans and are the only physical banking presence in one in five U.S. counties. Holding more than $4.9 trillion in assets, $3.9 trillion in deposits, and $3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.

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ICBA has consistently advocated for HMDA relief for community banks by pointing out how expensive, complex, and overly burdensome data collection and reporting is for smaller community banks. We strongly support the Bureau setting the closed-end mortgage threshold to at least 100, and strongly urge consideration of an even higher number that would provide relief to more community banks. Additionally, we support making permanent the 500 open-end lines of credit threshold instead of reverting to a 200 threshold in 2022.

We appreciate the Bureau's continued support in tailoring reasonable regulations for community banks throughout the United States.

Background

HMDA was enacted in 1975 and requires certain financial institutions to provide mortgage data to the public.[2] HMDA's original purpose was to provide the public and public officials with information to help determine whether financial institutions are serving the housing needs of the communities in which they are located while helping public officials determine if public sector investments are allocated in a way to best improve the private investment environment. Congress later expanded HMDA to require financial institutions to report racial characteristics, gender, and income information on applicants and borrowers. Regulation C implements HMDA and establishes specific requirements for the collection, recording, reporting and disclosure of mortgage lending information.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act" or "Dodd -Frank")[3] transferred rulemaking authority for HMDA to the CFPB, effective July 2011. The Dodd-Frank Act also amended HMDA to add new data points and gave the Bureau authority to require additional information from covered institutions. In July 2014, the Bureau proposed amendments to Regulation C to implement the Dodd-Frank changes and added additional data points it deemed appropriate to further HMDA's purposes. The new HMDA Rule, issued on October 15, 2015, requires covered institutions to collect 48 unique data fields on most residential mortgage loan applications. Collection of the new data points began on January 1, 2018, with the reporting of that data beginning in 2019.

The 2015 HMDA rule added a new exemption for small-volume lenders.[4] Banks originating fewer than 25 closed-end loans or fewer than 100 open-end lines of credit secured by a dwelling in the two preceding calendar years are exempt from reporting requirements. In 2017, the CFPB temporarily increased the open-end threshold to 500 for the years 2018 and 2019. These volume exemptions were added to the existing statutory exemptions for banks under

[2] 89 Stat. 1124
[3] 124 Stat. 1376–2223
[4] 80 FR 66127

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$44 million in assets (adjusted annually) and banks with no offices in metropolitan statistical areas ("MSAs").

With the passage of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 ("EGRRCPA"), certain insured depository institutions became exempt from reporting the new data fields required under section 304(b)(5) and (6) and added by the 2015 final rule, provided they originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years.

The Bureau's proposed rule seeks to build on these incremental changes, thereby providing additional regulatory relief for small banks. Increasing the reporting threshold for closed-end mortgage loans to either 50 or 100 loans is a welcomed increase from the current threshold of 25. Additionally, the NPR would extend the current temporary threshold of 500 open-end lines of credit to January 1, 2022, and then reduce it to 200 after the expiration date. The proposed rule also implements the partial exemptions from HMDA's requirements that the EGRRCPA added to HMDA and generally addresses some interpretive issues relating to the partial exemptions.

ICBA Comments

The costs of time and money associated with HMDA data collection continue to be a significant concern for many community banks. A recent ICBA survey indicates that nearly 80% of community banks are required to report HMDA data.[5] On average, community banks make just over 300 closed-end mortgage loans a year. Qualitative and quantitative data from our members indicate that HMDA data collection often results in excessive costs, onerous time investment and confusion about how to correctly input data. These problems are exacerbated among smaller community banks, typically those that make 25 to 350 closed-end loans every year and have relatively small staffs. We strongly support the Bureau establishing the 100-loan threshold at a minimum, and strongly urge consideration of an even higher number that would provide relief to more community banks. Bureau data indicates that with a change to a 100-loan threshold approximately 1,682 depository institutions (roughly 39%) would no longer be required to report HMDA data. This would represent major regulatory relief for these community banks. Moreover, the change would have a minimal effect on aggregate HMDA data collection as 96%, or 3.43 million closed-end mortgages, would continue to be reported

Anecdotal and qualitative data from our recent survey provide a clear picture of how burdensome HMDA data collection can be for many small community banks. Many small banks describe how difficult it is for a limited staff to devote the required time necessary to accurately input HMDA data. For example, one bank with $550 million in assets has only one employee

[5] Community bank HMDA data and anecdotes cited in this letter come from a survey sent out to ICBA members in May 2019.

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dedicated to overall compliance. Another bank, with only $82 million in assets, is subject to HMDA reporting because one of its three branches happens to be in an MSA. Citing HMDA data collection as a large drain on resources, the bank documented over 400 employee hours to complete the 2018 HMDA Loan Application Register ("LAR"). Among community banks, some of the common themes and challenges surrounding HMDA data collection include the difficulties of data collection, subsequent reviews conducted by consultants, monetary costs[6], and staff training. Furthermore, many bankers continually cite a lack of clarity about the data points and a general concern about keeping up with changing regulations and rules.

The monetary costs associated with HMDA reporting represent one of the most challenging aspects for community banks. Bureau data indicates that aggregate savings on the operational costs associated with an increase to the 100-loan threshold would be approximately $8.1 million per year, averaging nearly $5,000 in savings per bank. We agree that any loss of data by this increased threshold is more than made up by the reduction in compliance costs for the approximately 1,682 lower-volume depository institutions. Moreover, our recent survey indicates that 50% of community banks reported over $10,000 in estimated annual data collection costs and 25% of community banks reported costs exceeding $25,000. These are significant costs for many smaller banks and suggest the Bureau's estimates may be overly conservative. The aggregate savings could be significantly larger.

ICBA strongly encourages the Bureau to make permanent the 500 open-end line of credit threshold instead of reverting to a 200-loan threshold in 2022. Home Equity Lines of Credit ("HELOCs") or open-end lines of credit secured by a consumer dwelling continue to be profitable and indispensable products for community bank customers. This type of loan was only HMDA-reportable as of 2015, and ICBA opposed the mandatory reporting of HELOCs, especially considering it is not a statutory requirement.[7] Moreover, HELOCs are not frequently used for home purchases, and the loan's purpose is often not clear at the time of application, or how it may change throughout the loan term. HELOC datapoints are not helpful in supporting the original purpose of HMDA because these loans are used for varying reasons and purposes outside of housing. In addition, HELOCs are affordable sources of credit and viable alternatives to refinancing a house. We are concerned that costs associated with having to report this data may be passed on to consumers who rely on these products. Furthermore, the seesaw effect of reducing thresholds unnecessarily complicates and undermines a bank's ability to satisfy HMDA reporting requirements. To mitigate this, we strongly urge the Bureau to make the current 500 threshold permanent.

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[6] ICBA's HMDA survey asked community banks to specify the ongoing costs of HMDA data collection.
[7] https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/2014/icbacl102914.pdf?sfvrsn=ef659e08_2

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Conclusion

Community banks pride themselves on supporting their communities in countless ways ranging from tailoring a unique mortgage loan that larger banks do not have the time to consider, to working with someone of limited means who wants to open their first checking account. Community banks want to see their towns and cities grow and flourish. Excessive regulation and the onerous costs of HMDA data collection prevent small banks from doing what they do best – connecting and lending to customers who otherwise might not have access to banking, much less a mortgage.

ICBA appreciates the Bureau's ongoing efforts to make sure community banks are subject to sensible, fair regulation commensurate to their size and risk profile. Increasing the HMDA reporting thresholds will help many community banks re-direct valuable resources to investing in their communities instead of burdensome and unnecessary regulation.

Please do not hesitate to contact me at ron.haynie@icba.org or Rhonda Whitley, ICBA vice president and regulatory counsel, at rhonda.thomas-whitley@icba.org, with any questions.

Sincerely,

/s/

Ron Haynie
Senior Vice President, Mortgage Finance Policy

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