Submitted electronically

June 11, 2014

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Small Business Review Panel for HMDA Rulemaking

Dear Director Cordray:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) outline of the proposed changes to the Home Mortgage Disclosure Act's (HMDA) Regulation C, produced as part of the Small Business Regulatory Enforcement Fairness Act (SBREFA) process. We especially are pleased the CFPB included

[1] The Independent Community Bankers of America® (ICBA), the nation's voice for more than 6,500 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

ICBA members operate 24,000 locations nationwide, employ 300,000 Americans and hold $1.3 trillion in assets, $1 trillion in deposits and $800 billion in loans to consumers, small businesses and the agricultural community. For more information, visit www.icba.org.

many representatives from the community banking industry to advise the Small Business Advocacy Review panel created as part of the SBREFA process to review the potential proposed HMDA rule. We echo the comments provided to you by the community bank representatives and hope their comments, as well as the comments reflected in this letter, will be carefully considered before you publish a proposed rule.

The CFPB Should Not Regulate Beyond the Purpose of HMDA

ICBA understands the purpose behind HMDA reporting and recognizes the significance HMDA data has in showing how financial institutions are serving the housing needs of their communities. As stated in Regulation C, the purpose of HMDA is to provide the public with loan data: "(i) to help determine whether financial institutions are serving the housing needs of their communities; (ii) to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (iii) to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes."[2] The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") amended HMDA: (i) to require the reporting of additional data points; (ii) to direct the CFPB to make determinations about whether certain data elements are appropriate for addition; (iii) to grant the CFPB authority to require additional data elements and information; and (iv) to authorize the CFPB to develop regulations for the purpose of protecting the privacy interests of applicants and borrowers.[3]

Currently, community banks are facing more regulatory challenges as additional requirements and restrictions are being placed on them, particularly with regard to mortgage lending. Compliance officers, managers, and bank executives spend a significant number of hours complying with the many regulatory requirements necessary to provide information to regulators, document banking transactions, and provide correct and timely disclosures to consumers. And while no one regulation by itself is significantly overwhelming, the cumulative requirements of all new banking regulations, particularly with regard to mortgage lending, has been tremendous, especially for smaller community banks. Not only can too much regulatory change within a short timeframe affect the business of community banks, it can directly impact their customers who rely on these banks as a primary source for financial products and services.

As the CFPB moves forward with additional HMDA requirements, we strongly urge it to do so with a balanced approach that does not restrict the lending businesses of smaller and less complex banks. In addition, we do not support requiring any new data to be reported for HMDA purposes if it is not collected or

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[2] 12 C.F.R. § 1003.1(b)(1).
[3] *See, e.g.*, Dodd-Frank Act, sec. 1094(3), 12 U.S.C. 2803(b)(5)(D) and (J); 1094(3)(B); 12 U.S.C. 2803(h)(1)(E).

reviewed as part of the bank's normal mortgage underwriting process. Community banks should not be required to collect and report information they do not use in underwriting solely for purposes of HMDA reporting as such policy is beyond the original purpose of HMDA.

The CFPB Should Not Require the Collection and Reporting of Additional HMDA Data Not Mandated By the Dodd-Frank Act

The Dodd-Frank Act requires the collection and reporting of several new data points, including information about a borrower's age and credit score, information about loan features and pricing and, as the CFPB deems appropriate, unique identifiers for loans, properties, and loan originators. The Dodd-Frank Act also authorizes the CFPB to require financial institutions to collect and report other information as it may require.[4]

ICBA strongly urges the CFPB to not require any financial institutions to report additional HMDA data not specifically required by the Dodd-Frank Act. The reality is the compliance costs of HMDA combined with all of the other regulatory changes to the mortgage requirements are making it significantly more difficult for all lenders and, in particular, community banks to continue to provide mortgage loan products to their customers. ICBA does not want to see community banks leave the mortgage business due to regulatory burden. While we understand the purpose of substantive regulations designed to insure that consumers are getting safe and sound mortgage loan products, we do not support burdensome requirements solely for purposes of agency data collection and analysis. Any new requirements should provide direct benefits to consumers.

ICBA Supports a HMDA Coverage Test Based on Loan Volume

The CFPB has indicated that in addition to implementing the Dodd-Frank Act changes to HMDA requirements, it is using this opportunity to review the HMDA reporting regime to examine which mortgage lenders are required to report HMDA data. The CFPB has stated that to simplify the current coverage tests, it is considering proposing a single, consistent minimum loan volume threshold for HMDA coverage for both depository institutions and non-depository institutions. The threshold under consideration is 25 closed-end mortgage loans per calendar year. Under this approach, only financial institutions that originated 25 or more closed-end home purchase or refinance loans in a given year and satisfy current location and asset-size tests would be required to report HMDA data. The CFPB is also considering what types of loans should count toward the 25-loan threshold, including closed-end home equity loans, home equity lines of credit (HELOCs), and reverse mortgages.

[4] Outline pp. 14-15.

ICBA supports a loan threshold amount to determine HMDA coverage as long as it would add to and not replace the current HMDA exemption specified in Regulation C. ICBA does not support any changes to Regulation C that would require community banks currently exempt from reporting to comply with HMDA requirements moving forward. Furthermore, while a 25-loan threshold could be helpful in relieving regulatory burden for some community banks with the smallest mortgage businesses, we think a more effective loan threshold would be 100 loans, which would include only closed-end first-lien mortgage loans and not home equity loans, HELOCs, or reverse mortgage loans.

In addition, ICBA supports HMDA reporting by mortgage brokers and other non-lender loan purchasers and originators that meet the threshold criteria. The reporting of these entities would provide a consistent overview of the mortgage market.

Privacy Concerns Should Be Considered When Requiring Additional HMDA Data

ICBA also urges the CFPB to balance the public's current privacy concerns with the public interest in requiring additional HMDA data before proposing new regulatory requirements. In particular, for community banks that approve a limited number of HMDA-reportable loans or provide financing in rural or underserved areas, adding additional personal customer information to the collected data creates serious privacy concerns because it is feasible in some areas with a limited number of reportable loans to identify a specific individual whose mortgage is being disclosed on a HMDA report when that information is included with information that is publicly available. Furthermore, advances in technology now allow businesses that request public modified loan application/registers to integrate the data with other publicly available data to make determinations about individual consumers.

ICBA urges the CFPB to examine the potential privacy issues that exist with requiring additional HMDA data to be disclosed, both in the HMDA report and in the public modified loan application/register. Special consideration about privacy should be given to community banks that serve customers in rural and underserved areas.

Conclusion

We appreciate the CFPB's attention to the many issues involved with implementing the HMDA changes required by the Dodd-Frank Act. If you have questions or need additional information about the comments expressed in this letter, please contact me at (202) 821-4469 or Elizabeth.Eurgubian@icba.org.

ICBA would be happy to meet with CFPB staff to discuss these comments in further detail and provide additional insight from the community banker perspective.

Sincerely,

/s/

Elizabeth A. Eurgubian
Vice President & Regulatory Counsel