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June 8, 2015

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

Dear Director Cordray:

I am writing to express ICBA's concern regarding the Consumer Financial Protection Bureau's (the Bureau) order to service providers requesting information about community bank clients' overdraft programs for the Bureau's market research. The three service providers receiving the order – Fiserv, Inc., FIS Global and Jack Henry & Associates – collectively provide data processing services to thousands of community banks.

The Bureau's request was made pursuant to Section 1022 (c)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act which allows the Bureau to gather information from banks and non-banks subject to its rulemaking authority, and their service providers, to monitor the consumer financial services marketplace.

The Bureau's request became public when one of the processors recently sent a notice to its client banks advising that the Bureau had ordered the processor to provide approximately 60 data elements for each client bank's system settings and experience pertaining to overdraft programs. The company noted the Bureau directed the service providers not to provide any information that would identify specific institutions or individual customers, and that the request would require thousands of hours of effort, resulting in significant expenses that would likely be passed on to client banks. The company said it would provide an estimate of the order's financial impact on each client by the end of August, when it provides the data to the Bureau.

Community bankers across the country are deeply troubled and concerned about the order. Hundreds of bankers have weighed in with ICBA and ICBA State and Regional Partner associations. Bankers are upset about the scope and perception of the order as well as the associated financial and non-financial costs that client banks will likely incur.

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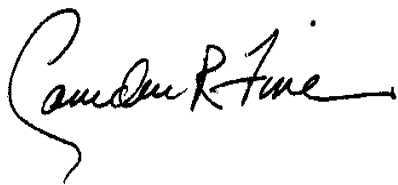
Bankers are apprehensive and puzzled by the Bureau casting such a broad and indiscriminate net to obtain information that is already available to and scrutinized by their prudential regulators during the examination process. Many community bankers find the Bureau's information collection authority alarming since they commonly associate information requests with the regulatory examination process. Additionally, this giant data sweep further fuels banker angst given their concerns regarding the intrusiveness of big data collection and mining.

Although service providers are not supplying bank- or customer-identifiable information, community bankers are also fearful that this information could place the bank in jeopardy of additional regulatory scrutiny and/or compliance activity; or even an enforcement order or referral to Department of Justice. This fear is particularly acute given the disparate regulatory enforcement environment between community banks and the world's largest banks. Finally, bankers are now questioning whether they have ownership and control over their bank and customer data if a government entity has the authority to request and analyze this data without any transparency to client banks.

Community bankers are incensed that they may ultimately pay for the cost of the processors complying with the Bureau's information request. Typically, service provider contracts have provisions requiring client banks to pay the costs of changes necessary for compliance with new and modified regulatory rules; however, the Bureau's order is an information request and not a regulatory rule. While the two other processors have not yet communicated their intent to directly pass along expenses to clients' banks, complying with the order, at a minimum, is likely to siphon programming resources away from other important programming needs, such as application enhancements, and thereby result in non-financial costs.

These numerous and serious community banker concerns necessitate ICBA strongly opposing this extreme example of government overreach under the guise of market monitoring authority. We urge the Bureau to take measures to address these concerns.

Sincerely,



Camden R. Fine
President/CEO

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