



JACK A. HARTINGS
Chairman
REBECA ROMERO RAINEY
Chairman-Elect
R. SCOTT HEITKAMP
Vice Chairman
PRESTON KENNEDY
Treasurer
J. MICHAEL ELLENBURG
Secretary
JOHN H. BUHRMASTER
Immediate Past Chairman
CAMDEN R. FINE
President and CEO

December 22, 2015

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

Dear Director Cordray:

The recent enactment of the Fixing America's Surface Transportation Act or FAST Act contains several regulatory relief provisions discussed below that are very important to community banks. The Independent Community Bankers of America (ICBA)¹ urges the Consumer Financial Protection Bureau (Bureau) to promptly clarify and provide guidance to afford community banks the ability to serve the ongoing mortgage needs of their customers and to reduce their regulatory burden.

Title LXXV – Eliminate Privacy Notice Confusion

The FAST Act creates a new exception to the annual privacy notice requirement. Financial institutions will no longer be required to provide annual privacy notices if the following conditions are met:

- The institution has not changed its privacy policies or practices; and
- The institution only shares nonpublic personal information with third party service providers, including those that market the bank's own products or services, or products or services offered pursuant to a joint marketing agreement.

While the provision does not require an implementing rule, ICBA is urging the Bureau to update its existing privacy rules to conform to the new provision. ICBA interprets the

¹ The Independent Community Bankers of America®, the nation's voice for 6,000 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.

With 52,000 locations nationwide, community banks employ 700,000 Americans and hold \$3.6 trillion in assets, \$2.9 trillion in deposits, and \$2.4 trillion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

The Nation's Voice for Community Banks.®

WASHINGTON, DC ■ SAUK CENTRE, MN ■ NEWPORT BEACH, CA ■ TAMPA, FL ■ MEMPHIS, TN

1615 L Street NW, Suite 900, Washington, DC 20036-5623 | 800-422-8439 | FAX: 202-659-1413 | Email: info@icba.org | Website: www.icba.org

statutory language to allow financial institutions that meet the conditions specified above to cease mailing privacy notices as of December 4, 2015 and is urging the Bureau to confirm this interpretation as soon as possible.

TITLE LXXXIX—Helping Expand Lending Practices in Rural Communities – Operations in Rural Areas

The FAST Act removes the requirement that a “small creditor” lend “predominantly” in rural or underserved areas in order to qualify for certain exceptions to the Bureau’s mortgage rules. (Qualifying lenders will be referred to as “rural lenders.”) The Bureau has interpreted “predominantly” to mean that the creditor issued more than 50 percent of its loans in rural or underserved areas in the preceding calendar year. This loan test has proved very difficult for community banks that serve both rural and non-rural areas. Only a “small creditor” may qualify as a “rural lender.” To qualify as a small creditor, a financial institution, together with its mortgage originating affiliates, must have assets of less than \$2 billion as of the end of the last calendar year and must have issued fewer than 2,000 first- lien loans, excluding mortgages held in portfolio, during the most recent calendar year.

Small creditors that qualify as rural lenders enjoy three benefits: (i) they may issue balloon loans that meet the definition of “qualified mortgage;” (ii) they may originate high-cost mortgages with balloon payments; and (iii) they are exempt from the escrow requirement that otherwise applies to higher priced mortgages.

Since this provision cannot be implemented until a rule is issued, ICBA is urging the Bureau to promptly act on the new law and amend the Small Creditor provision of the QM rule to remove any rural or underserved lending test.

TITLE LXXXIX—Helping Expand Lending Practices in Rural Communities – Designation of Rural Areas

The FACT Act requires the Bureau to establish an application process by which a person who lives or does business in a State may petition for the designation of an area within that as a “rural area” with respect to the agency’s mortgage rules. The Act sets forth evaluation criteria to be used by the Bureau in making such determinations and a timeline for the publication of applications received, a public comment period, and Bureau decisions with regard to applications. The Act also provides for subsequent applications with regard to areas that have been previously denied rural status. The application process sunsets two years after the enactment of the Act, December 4, 2017.

The statute requires the rural designation petition process become effective 90 days after enactment, on March 4, 2016. ICBA requests that the Bureau issue proposed evaluation criteria promptly to enable community banks be able to apply for the designation. We urge the Bureau to move quickly to implement these much needed regulatory relief provisions, and look forward to working with Bureau staff to help expedite the process. Please do not hesitate to contact Lilly Thomas, Lilly.Thomas@icba.org regarding the

privacy notice provisions and Ron Haynie, Ron.Haynie@icba.org regarding the mortgage provisions.

Thank you for your time and attention to this matter.

Sincerely,

/s/

Camden R. Fine
President and CEO