



Timothy K. Zimmerman, *Chairman*  
Preston L. Kennedy, *Chairman-Elect*  
Noah W. Wilcox, *Vice Chairman*  
Kathryn Underwood, *Treasurer*  
Christopher Jordan, *Secretary*  
R. Scott Heitkamp, *Immediate Past Chairman*  
Rebeca Romero Rainey, *President and CEO*

*Via electronic submission*

December 27, 2018

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

Re: Request for Information Regarding Bureau Data Collections [Docket No. CFPB-2018-0031]

Dear Director Kraninger:

The Independent Community Bankers of America (“ICBA”)<sup>1</sup> welcomes this opportunity to provide comment in response to the Bureau of Consumer Financial Protection’s (“CFPB” or “Bureau”) Request for Information (“RFI”) regarding Bureau data collections.<sup>2</sup> Overall, ICBA continues to appreciate the Bureau’s holistic review of operations and policies through its “Call for Evidence.” The feedback received in response to these RFIs will be critical as the Bureau continues to reorient and rededicate itself to its mission: facilitating greater consumer choice and efficient markets, while still vigorously enforcing consumer financial law in a way that guarantees due process.

ICBA is also appreciative of your recent remarks, which indicate that data security and data privacy are going to be a big focal point for the Bureau.<sup>3</sup> Your statement aligns with ICBA’s belief that the Bureau’s collection and use of consumer data should prioritize consumer privacy.

---

<sup>1</sup> 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](http://www.icba.org).

<sup>2</sup> 83 Fed. Reg. 49,072 (Sept. 28, 2018).

<sup>3</sup> See Katanga Johnson, “New U.S. consumer watchdog chief echoes Mulvaney as she lays out her plans,” Reuters.com, Dec. 11, 2018, quoting Director Kraninger, “Data security and data privacy going to be a big focal point in terms of what the bureau collects, how it’s used, how long it’s stored, what information is appropriate to be shared among regulators.”

## **The Bureau’s Robust and Thorough Data Report Addresses Several Industry Concerns**

This current RFI, which is the latest component of the Bureau’s “Call for Evidence,” provides stakeholders with the opportunity to respond to the CFPB’s collection, use, and management of data. Although ICBA still has some concern about the Bureau’s dissemination of data, the Bureau has made significant strides in responding to industry concerns. Most notably, ICBA welcomes the Bureau’s robust publication, “The Sources and Uses of Data at the Bureau of Consumer Financial Protection” (“Data Report”), which addresses concerns about transparency of the Bureau’s collection and use of data.

As the RFI notes, the Bureau is statutorily authorized to collect data, both as a means to facilitate its overall function and as method to provide consumers with marketplace information.<sup>4</sup> However, given the scale and magnitude of the data collected, as well as the ramifications of potential vulnerabilities and data breaches, ICBA remains concerned with the Bureau’s collection and control of data.

For example, ICBA has repeatedly expressed concern with the Bureau’s lack of written procedures and documentation for data intake and management. ICBA raised concerns about the possibility of bad actors reassembling disaggregated data to identify personal information about consumers, as well as the degree to which the Bureau shares information with others, including federal and state agencies. ICBA also maintains that transparency is necessary to determine what sources the Bureau used to collect data.

Concurring with several of these concerns, the Government Accountability Office (“GAO”) issued a report in 2014, finding that the Bureau lacked robust data governance protocols that provide the public with transparency on how the Bureau uses data.<sup>5</sup> The GAO report recommended several corrective actions, including the publication of a comprehensive document that describes the processes and procedures of the Bureau’s data-related activity. ICBA agrees with GAO’s recommendations, and therefore, welcomes the publication of the Bureau’s Data Report as part of that response. ICBA especially appreciates Appendix A of the report, which serves as an exhaustive repository of all data collected since the Bureau’s inception.

### **ICBA Maintains Concern Regarding the Sharing and Public Dissemination of Data**

While the Bureau has done a commendable job in responding to GAO concerns, ICBA reiterates unaddressed concerns raised in previous letters, including the sharing of information with other

---

<sup>4</sup> 12 U.S.C. 5511(c).

<sup>5</sup> Gov’t Accountability Off., GAO-14-7 58, Some Privacy and Security Procedures for Data Collections Should Continue Being Enhanced, (Sept. 22, 2014), *available at* <https://www.gao.gov/assets/670/666000.pdf>.

agencies that have no jurisdiction over community banks.<sup>6</sup> The Dodd-Frank Act limits the Bureau's authority to disclose "confidential supervisory information" to a "prudential regulator or other agency having jurisdiction over a covered person or service provider[.]"<sup>7</sup> ICBA recommends that the Bureau more fully address this concern in a future Data Report.

Additionally, concerns still remain about privacy risks to consumer's personally-identifiable information posed by the Home Mortgage Disclosure Act ("HMDA") requirements. This is especially troubling considering recent data breaches in both the public and private sectors which exposed sensitive information about millions of consumers. These concerns were recognized by the Bureau as the nexus for additional rulemaking.

When considering changes to HMDA guidance, the Bureau noted, "with respect to the HMDA data that will be reported to the agencies [...] the CFPB believes that public disclosure of the unmodified loan-level data set, as a whole, would create risks to applicant and borrower privacy interests under the HMDA balancing test."<sup>8</sup> The Bureau should continue evaluating how it can limit public disclosure of HMDA data in order to protect the privacy of consumers. The Bureau should mitigate re-identification risks.

Again, ICBA appreciates the Bureau's overall dedication to reorienting itself to be more in line with the statutory intent of the Dodd-Frank Act, and we particularly appreciate this current RFI's solicitation of feedback on how the Bureau can improve its data transparency and accountability. If you have any questions or would like additional information, please do not hesitate to contact me at (202) 659-8111 or michael.emancipator@icba.org.

Sincerely,

/s/

Michael Emancipator  
Assistant Vice President, Regulatory Counsel

---

<sup>6</sup> See ICBA comment letter in response to Proposal on Disclosures of Records and Information, Oct. 24, 2016, available at [https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/2016/ltr102416.pdf?sfvrsn=6a5f9108\\_0](https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/2016/ltr102416.pdf?sfvrsn=6a5f9108_0).

<sup>7</sup> 12 U.S.C. § 5512(c)(6)(C)(ii).

<sup>8</sup> 82 Fed. Reg. 44586 (Sept. 25, 2017), at 44,590.