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*Via electronic submission*

May 29, 2018

The Honorable Mick Mulvaney  
Acting Director  
Bureau of Consumer Financial Protection  
1700 G Street, NW  
Washington, DC 20552

Re: Request for Information Regarding Bureau External Engagements  
[Docket No. CFPB-2018-0005]

Dear Acting Director Mulvaney:

The Independent Community Bankers of America (“ICBA”)<sup>1</sup> appreciates the opportunity to comment on the Bureau of Consumer Financial Protection’s (“BCFP” or “Bureau”) request for information (“RFI”) regarding Bureau external engagements. The Bureau is publishing this RFI as part of its effort to better understand how it may improve or revise its engagements to better achieve the Bureau’s statutory objective.<sup>2</sup> Reiterating comments made in response to previous RFIs, ICBA appreciates this effort.

## **Background**

The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd Frank Act” or “Act”) charges the BCFP with establishing a Consumer Advisory Board to advise and consult with the Bureau’s Director (“Director”) on a variety of consumer financial issues.<sup>3</sup> The Dodd Frank Act

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<sup>1</sup>The Independent Community Bankers of America®, the nation’s voice for nearly 5,700 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 nearly 52,000 locations nationwide, community banks employ 760,000 Americans, hold \$4.9 trillion in assets, \$3.9 trillion in deposits, and \$3.3 trillion in loans to consumers, small businesses, and the agricultural community. For more information, visit ICBA’s website at [www.icba.org](http://www.icba.org).

<sup>2</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_rfi\\_external-engagements\\_022018.pdf](https://files.consumerfinance.gov/f/documents/cfpb_rfi_external-engagements_022018.pdf) p.5

<sup>3</sup> 12 U.S. Code § 5494

also gave the Director authority to create advisory councils as an additional way to reach stakeholders, obtain their input, and hear their perspectives. In September 2012, the Bureau announced the creation of a Community Bank Advisory Council (“CBAC” or “Council”), a Credit Union Advisory Council and an Academic Research Council. The CBAC and the Credit Union Advisory Council advise and consult with the Bureau on consumer financial issues related to community banks and credit unions, respectfully. The Academic Research Council shares insight relating to research methodologies, data collection and analytic strategies.<sup>4</sup> To date, the Bureau has conducted 47 public meetings of the four councils.

Through the CBAC, community banks can share pertinent information on how Bureau policies impact them and their customers, provide an understanding of compliance and regulatory challenges, and provide insight regarding technical and operational considerations.<sup>5</sup>

The Bureau uses other forums such as town hall meetings and field hearings to obtain input from various stakeholders impacted by the Bureau’s rulemakings and other initiatives. Since the Bureau’s inception, it has hosted 33 field hearings and 15 town halls in more than 40 cities. Finally, the Bureau routinely participates in industry-sponsored events.

## **ICBA Comments**

### **Executive Summary**

ICBA is an avid supporter of the CBAC and strongly urges the Bureau to continue the CBAC. The CBAC shares valuable market information, analysis, and recommendations to better inform the Bureau as it undertakes policy development, rulemaking, and engagement work. The input provided by the CBAC, on behalf of community banks, is candid, raw, and directly from community bankers. Much of this input is focused squarely on regulatory measures that are oftentimes burdensome and unreasonable given the community banking relationship-based business model. The Council meetings also allow for give-and-take dialogue between community bankers and Bureau staff, with staff being able to follow up with questions to better flesh out, clarify and illuminate the input provided by bankers.

The CBAC is also the voice for the consumers reliant on community banks to meet their financial needs. While Council input is not always reflected in BCFP decisions, the Council is able to shed light on the unintended consequences and counterproductive impact on consumers that the BCFP may not foresee when proposing regulations. Over the years, the Council has demonstrated to the Bureau that community banks are indeed committed to providing financial products and services in the best interests of consumers and are consumer advocates as well given their personal knowledge of their customers and communities.

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<sup>4</sup> CFPB Announces Consumer Advisory Board Members <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-announces-consumer-advisory-board-members/>

<sup>5</sup> Consumer Financial Protection Bureau Charter of the CFPB’s Community Bank Advisory Council, p.1

ICBA believes the Bureau is committed to fostering forums wherein various stakeholders have the opportunity to provide input; the CBAC is such a forum for community banking. ICBA strongly urges the Bureau to continue the CBAC, however, it is crucial for the Bureau to have processes in place for ensuring that stakeholder input is not only extracted but reflected in the Bureau rulemaking process and other initiatives. We are pleased to have this opportunity to put forth recommendations below for improvement in the areas of Council engagement, composition and service.

- *ICBA urges the Bureau to remember its purpose for creating the councils by consistently seeking input from CBAC members.*
- *ICBA encourages the Bureau to implement a process wherein Council members would have the ability to provide ongoing “real-time” feedback regarding matters that are of concern and impact the day-to-day ability of a community bank to serve their customers.*
- *ICBA applauds the Bureau’s desire to ensure openness and transparency and encourages it to continue in this regard.*
- *ICBA urges the Bureau to consider implementing general rules of engagement if they are not already in place when tapping the CBAC’s expertise.*
- *ICBA recommends the Bureau increase the number of CBAC members and expand the diversity criteria to include a minority bank representative and various community bank market characteristics.*
- *ICBA recommends the Bureau reimburse Council members for all travel costs.*

ICBA applauds the Bureau for hosting town hall meetings and field hearings to obtain broader stakeholder input and encourages the Bureau to continue this outreach. However, we strongly encourage the Bureau to announce and promote town halls and field hearings at least 60 days in advance. Lastly, we strongly appreciate the Bureau’s efforts to meet with community banker delegations in conjunction with these outreach meetings and upon request.

### **The Community Bank Advisory Council (CBAC)**

The CBAC is a valuable forum for the Bureau to solicit and obtain direct and unfiltered feedback from community bankers providing financial products and services to customers in their communities. Council members are the ideal operational and practical experts for providing information to assist the Bureau in crafting regulations that are balanced and achieve the outcome that is in the best interests of consumers. The CBAC is an extremely important forum for educating Bureau staff on how potential and existing rules impact community banks’ ability to serve their customers.

When the Bureau was first envisioned and subsequently created, its key staff tended to be Wall Street types, academics, executives, policy professionals, and attorneys, all of whom lacked the requisite practical knowledge of community banking. Traditional operations-level bank professionals did not flock to the Bureau. This lack of an operational-level perspective often

resulted in rules depriving community bank customers of access to products and services tailored to their financial needs. The CBAC is the most appropriate response/vehicle for ensuring that the Bureau receives the real-life and expert input of community bankers.

### *CBAC Engagement*

The members of CBAC take their roles seriously and view their position on the Council as an important and necessary vehicle to ensure community banks' perspectives are presented and weighed during the entire rulemaking process. The CBAC and other councils were created to play an important role in making sure that the Bureau considers the full spectrum of stakeholder perspectives in the consumer financial marketplace. Yet, notwithstanding the Bureau's purpose in creating the councils, current and former CBAC members indicate there are times when it appears the Bureau already has its mind made up on a matter before seeking input from the CBAC and demonstrates an unwillingness to weigh such input. This is quite frustrating for Council members who spend a lot of time providing "boots on the ground" perspectives on the impact of various Bureau initiatives and working on recommendations to address various matters, while the Bureau, in some instances, has already decided on its course of action. Granted, ICBA is not suggesting that all rulemaking and policy decisions be based on just CBAC input, but at a minimum, we do urge the Bureau to remember its purpose in creating the Council and consider and incorporate its input accordingly. Council members want assurances that they are heard and that their time on the Council is valuable.

The Bureau also posts annual reports, agendas, and minutes of all council activities and meetings. ICBA applauds the Bureau's desire to ensure openness and transparency and encourages it to continue in this regard.

While the Bureau's strategies for seeking the Council's, input are well thought out, ICBA encourages the Bureau to implement a process wherein Council members have the ability to provide ongoing "real-time" feedback regarding matters that are of concern and impact the day-to-day ability of community banks to service their customers. Such a process would provide a mechanism for CBAC members to convey information regarding a matter which may or may not be on the Council's agenda. The process should also include the Bureau obtaining broader input from the entire Council and identify appropriate next steps in conjunction with the Council. The matter, actions, rationales and outcomes should be documented in the Council's publicly-available annual report.

ICBA urges the Bureau to consider implementing the general rules of engagement noted below if they are not already in place when tapping the CBAC's expertise.

- Obtain and analyze the CBAC perspective and relevance on Bureau regulatory policy and engagement initiatives.

- Be open to the addition of initiatives originating from the CBAC as well as those set by the Bureau.
- Conduct routine check-ins with CBAC members and maintain regular communications.
- Be committed to addressing CBAC concerns and demonstrating that the Bureau is indeed listening and considering its input; identify ways to document this commitment to foster participation.
- Modify processes, approaches and decisions in response to CBAC feedback.
- Involve the CBAC early in the rulemaking process taking care to comply with the Administrative Procedures Act.
- Foster meaningful CBAC interactions and avoid “check the box” interactions.
- Gather intelligence throughout the entire life cycle of all initiatives, from planning to implementation to review, to ensure the community bank perspective is considered throughout and achieving the desired policy outcome.
- Develop a forum or mechanism for extrapolating lessons learned and paying attention to how CBAC members perceive their engagement, usefulness, and relevance.

### *CBAC Composition and Service*

ICBA recommends the Bureau increase the number of CBAC members and expand the criteria for diversity. Currently, the Director appoints 15-20 community bankers to the Council and seeks out individuals with “diverse points of view, institution asset sizes, and geographical backgrounds.”<sup>6</sup> In addition to the current diversity criteria, ICBA recommends a designated slot for a minority bank representative, and the inclusion of community banks representing markets with various characteristics, such as urban, suburban and rural, etc. These recommendations will allow for a more comprehensive and diverse reflection of community banks. A representative Council in terms of number and diversity is crucial to ensuring all voices in the industry are heard and that the Bureau is discharging its duty accordingly.

There are significant time and monetary resources associated with serving on the Council. In terms of time, CBAC members are asked to read, analyze and provide specific feedback on staff proposals and how they will impact their bank’s operations. Council members are asked to attend no less than two meeting per year in Washington D.C., participate in conference calls and correspond through email when necessary. Regarding hard-dollar costs, the BCFP pays air travel to Washington D.C. but the Council member (or the member’s bank) must pay all other costs, including hotel, ground transportation, meals, etc., associated with attending meetings. ICBA recommends that the Bureau, in addition to airfare, pay for all costs associated with Council meetings. This action would demonstrate that the Bureau is aware of the time and effort the CBAC members make in representing their industry.

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<sup>6</sup> Consumer Financial Protection Bureau Charter of the CFPB’s Community Bank Advisory Council, p.2

## Other External Engagement Forums

ICBA applauds the Bureau for hosting town hall meetings and field hearings to obtain broader stakeholder input and encourages the Bureau to continue this outreach. However, we strongly recommend the Bureau announce and promote town halls and field hearings at least 60 days in advance. From community bankers' perspective, this reasonable notice would allow adequate time for bankers to plan to be away from their banks, sufficient time to make less expensive travel arrangements and if necessary, appropriate preparation time to support their robust participation. Additionally, implementing this recommendation will likely attract more and better prepared participants which results in more meaningful feedback.

ICBA sincerely appreciates the Bureau's efforts to meet with community banker delegations in conjunction with town hall and field hearings, and upon request when delegations visit Washington, D.C. The Bureau's participation in ICBA events is also greatly appreciated by ICBA and its membership. Community bankers welcome the opportunity to hear from the Bureau's leadership and staff, and the Bureau's participation contributes to the overall success of these events.

ICBA appreciates the opportunity to provide input on this RFI. If you have any questions or would like additional information, please contact Rhonda Thomas-Whitley (Rhonda.Thomas-Whitley@icba.org) at 202-659-8111.

Sincerely,

/s/

Rhonda Thomas-Whitley  
Assistant Vice President & Regulatory Counsel