

July 15, 2014

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

Dear Director Cordray:

The undersigned organizations represent thousands of community banks that provide mortgage loans to consumers in small towns and rural and exurban areas traditionally underserved by larger lenders. So our members can continue to serve the consumers in their communities, we strongly urge the Consumer Financial Protection Bureau (CFPB) to revise the current ability-to-repay/qualified mortgage (QM) rules and escrow requirements for higher-priced mortgage loans to allow community bank loans held in portfolio for the life of the loan to receive automatic QM safe harbor status and an exemption from the escrow requirements if the loans are higher priced.

We are pleased the CFPB is evaluating the recent Truth in Lending Act (TILA) mortgage rules to assess their impact on the industry and assess changes needed to help both creditors and consumers and assure credit availability. As the CFPB examines the recent rules, it must consider the unique business model of community banks and make the aforementioned modifications to the rules so this model can continue to be preserved.

Community banks operate under a completely different business model than that of the larger financial institutions and mortgage companies. They underwrite based on firsthand knowledge of their customers and communities, and thrive on the strength of their reputations. As such, community banks have every incentive to make fair, safe, and affordable loans.

In particular, community banks make it a priority to help various types of consumers, including those in rural communities where non-traditional mortgage loans, especially balloon loans, are prevalent due to the distinctive nature of rural properties. These loans are not sold into the secondary market but are kept in portfolio which gives the banks a vested interest in the loans' performance. Therefore, additional underwriting and escrow requirements only function as unnecessary regulatory burdens that stifle community banks' ability to provide solid loan products to consumers so they can achieve the American dream of home ownership. This reality seems inconsistent with the CFPB's mission which is "to make markets for consumer financial products and services work for Americans."

While we appreciate the distinctions made for small creditors in the QM and escrow rules, the exceptions are not broad enough. Based on the rules' current requirements, there are community banks that would be considered small financial institutions due to their asset size but that still do not qualify for the small creditor exemption because they exceed the loan volume threshold. A threshold of 500 total first lien originations per year is only 41 first lien mortgages per month, or nine per week, an amount that easily can be exceeded by a smaller creditor. For community banks that wish to grow their mortgage business, this low number is restrictive since some banks will not provide loans that do not have QM safe harbor status, so they stop providing mortgage loans altogether after they reach this low threshold.

Likewise, community bank loans held in portfolio should be exempt from new escrow requirements for higher-priced mortgage loans because portfolio lenders have every incentive to protect their collateral by ensuring the borrower can make tax and insurance payments. For many community banks, establishing and maintaining escrow accounts is expensive and impracticable and, again, will only deter lending to consumers who have no other options.

Finally, we find the current exceptions for community banks in the escrow and QM requirements to be pedantic and cumbersome, because community banks must constantly consider their current loan volume and where and to whom they are lending to in order not to lose exemption status, if indeed they qualified for it to begin with. A cleaner approach that adheres to the mission of the CFPB and the intent of the mortgage rules is to allow community bank loans held in portfolio, including balloon mortgage loans, to receive automatic QM safe harbor status and an exemption from the escrow requirements if the loans are higher priced. This change would also remove the need for complicated "rural" and "underserved" definitions which, in practice, are arbitrary and under inclusive.

Thank you for taking the time to review these rules and make necessary changes. We urge you to consider the unique characteristics of community banks as the CFPB moves forward with making revisions.

Sincerely,

Independent Community Bankers of America
Alabama Bankers Association, Inc.
Arizona Bankers Association
Arkansas Community Bankers Association
California Independent Bankers
Independent Bankers of Colorado
Connecticut Community Bankers Association
Florida Bankers Association
Community Bankers Association of Georgia
Heartland Community Bankers Association
Community Bankers of Iowa

Community Bankers Association of Illinois
Indiana Bankers Association
Community Bankers Association of Kansas
Bluegrass Bankers Association
Louisiana Bankers Association
Massachusetts Independent Bankers Association, Inc.
Massachusetts Bankers Association
Independent Community Bankers of Maine
Maine Bankers Association
Maryland Bankers Association
Community Bankers of Michigan
Independent Community Bankers of Minnesota
Missouri Independent Bankers Association
Montana Independent Bankers
Independent Community Banks of North Dakota
Nebraska Independent Community Bankers
New Hampshire Bankers Association
Community Bankers Association of New Jersey
Northern New Jersey Association of Community Bankers
Independent Community Bankers Association of New Mexico
Independent Bankers Association of New York State
Community Bankers Association of Ohio
Community Bankers Association of Oklahoma
Oregon Bankers Association
Pennsylvania Association of Community Bankers
Independent Banks of South Carolina
Independent Community Bankers of South Dakota
Tennessee Bankers Association
Independent Bankers Association of Texas
Virginia Association of Community Banks
Vermont Bankers Association
Community Bankers of Washington
Community Bankers of Wisconsin
Community Bankers of West Virginia
Wyoming Bankers Association