



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

April 13, 2015

Mr. Toney Bland
Senior Deputy Comptroller
Midsize and Community Bank Supervision
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

Ms. Maryann Hunter
Deputy Director
Division of Banking Supervision and Regulation
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Ms. Doreen Eberley
Director
Division of Risk Management Supervision
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Interagency Country Exposure Review Committee Process and Use of the
Allocated Transfer Risk Reserve Requirement

Dear Mr. Bland, Ms. Hunter, and Ms. Eberley:

The Independent Community Bankers of America (ICBA)¹ wishes to express its concerns about recent indications of potentially important changes by the banking agencies in their interpretation of regulatory provisions affecting certain high-quality mortgage loans made to persons or entities that either reside outside of the country or are

¹ The Independent Community Bankers of America®, the nation's voice for more than 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, 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

located domestically but are guaranteed by entity beneficial owners located in another country. ICBA is specifically concerned about mortgages fully secured by collateral located in the United States where, according to the banking agencies, transfer risk is deemed to be present in the economics of the transaction based on the lending arrangement. This type of lending may be perceived by your agencies as an international exposure of community banks that warrants special categorization, analysis, and elevated examiner scrutiny.

However, this type of high quality lending should not be broadly categorized as an international exposure based on one factor in isolation without looking at all facts and circumstances surrounding these lending arrangements together. It is important to note that regulatory provisions applicable to special treatment of transfer risk are intended to apply to corporate cross-border lending and not to fully U.S.-secured real estate lending. ICBA encourages the agencies to thoroughly evaluate all facts and circumstances surrounding each individual mortgage loan before assigning an allocated transfer risk reserve requirement (ATRR) to a specific loan simply because a small and ancillary component of the financing arrangement contains a non-U.S. based element. Assigning an ATRR to community banks, particularly ones that serve minority or ethnic groups, without thoroughly evaluating the credit risk to the financial institutions and all recent associated historical loss observations, has the potential to cause great harm to the banks, the communities they serve, and the local economies. When applied generally to these mortgage loans with international exposures, the ATRR could further impair an already fragile economic recovery that would adversely impact specific geographic regions of the country, many of which directly serve the nation's thriving ethnic minority communities.

In certain parts of the country, community banks that provide mortgage credit to foreign nationals that own real estate in the United States have done so using prudently underwritten lending arrangements that date back many years. These activities infuse stability into local economies and broaden demand for properties that enrich communities by providing jobs, commerce, and a strong tax base that help to stimulate long-term economic growth. Community banks, as the most important and sometimes the only lenders available in ethnically-diverse communities across the country, possess the personnel, resources, knowledge, and tools necessary to provide the financing needed to meet the demand of foreign ownership of local real estate. The loans are generally underwritten very conservatively with low to very low loan-to-value ratios, high debt service coverage, high quality real estate pledged as collateral, and with borrowers who have demonstrated extensive liquidity outside of their home countries with payments directly sourced from U.S. bank accounts. In many cases, the only foreign exposure faced by the community banks is a guarantee provided by a beneficial owner from outside of the United States. In the event of loss, however, the community banks look to enforce their rights entirely within U.S. courts and against the locally-situated properties.

Community banks that engage in this type of financing activity face U.S. credit risk and not transfer risk from a foreign country as regulators have suggested in recent outreach to these institutions. ICBA fears that regulators will rush to require these community banks

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

to establish an ATRR on high-quality domestic loans where the international borrower or guarantor resides in a country that has been rated as value impaired by the Interagency Country Exposure Review Committee (ICERC). Requiring the establishment of an ATRR to lending for which the ATRR was not intended or designed and without first thoroughly considering the nature of the lending arrangements would weaken these community banks, the majority of which provide key banking services to minority ethnic communities throughout the country and would impair their ability to provide much needed mortgage credit to the areas they serve.

ICBA encourages the banking agencies to carefully consider the circumstances under which the ATRR would be required for community banks that engage in prudent and sensible mortgage lending on U.S. properties to persons or entities that reside outside this country or are located domestically. Furthermore, the banking agencies should exercise caution when considering capital charges that weaken these institutions simply because some of their mortgages contain a narrow and ancillary foreign element.

Thank you for considering our views on this matter. If you have any questions or would like additional information, please do not hesitate to contact me at james.kendrick@icba.org or (202) 659-8111.

Sincerely,

/s/

James Kendrick
Vice President, Accounting & Capital Policy

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