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<http://www.regulations.gov>.

November 7, 2016

Ms. Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

Re: Docket No. CFPB-2016-0026, Request for Information on Payday Loans,  
Vehicle Title Loans, and Open-End Lines of Credit

Dear Ms. Jackson:

The Independent Community Bankers of America<sup>1</sup> appreciates the opportunity to provide comments to the Consumer Financial Protection Bureau (CFPB or Bureau) on its Request for Information (RFI) on Payday Loans, Vehicle Title Loans, and Open-End Lines of Credit. Through the RFI the CFPB is seeking feedback on practices and products that are related to but may not be addressed

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<sup>1</sup> The Independent Community Bankers of America, the nation's voice for nearly 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 51,000 locations nationwide, community banks employ 700,000 Americans, hold \$3.9 trillion in assets, \$3.1 trillion in deposits and \$2.6 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).

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in the Bureau's concurrently published Notice of Proposed Rulemaking on Payday, Vehicle Title, and Certain High-Cost Installment Loans (Concurrent Proposal).

## **I. Summary of ICBA's Position**

ICBA's position on small-dollar lending is clear – any new rules must not be so broad and indiscriminate that it inadvertently forces community banks out of the small-dollar loan market. Small-dollar loan products offered by community banks do not raise consumer protection concerns. Community banks offer small-dollar loans on terms that are safe and sustainable. While these loans are not a significant source of community banks' profits – in fact, many community banks report small-dollar loans are not profitable – many continue to offer them as an accommodation to customers who need access to credit. Community banks offer, underwrite, and service small-dollar loans on terms that work for them and their customers and additional rules with arbitrary underwriting requirements will likely have a significant negative impact on the availability of community bank small-dollar credit. ICBA strongly encourages the CFPB not to write new rules covering community bank small-dollar loan products not covered by the Concurrent Proposal.

## **II. Community bank participation in the small-dollar loan marketplace**

Most community banks are locally owned and operated and have strong ties to their communities. Community banks also have close relationships with their customers and consequently, are very familiar with their customers' financial condition, history and ability to repay loans. Community banks are responsible lenders that do not engage in abusive lending practices, such as steering consumers to unaffordable loan products.

Additionally, small-dollar loans are not a profit center for community banks. In fact, community banks report that they often lose money making small-dollar loans because the fees and interest do not cover the costs of underwriting and processing the loan. Even if these loans do not contribute to their profits, community banks make these loans because it is a part of serving the communities in which they do business.

While community banks report that they offer many different types of small-dollar credit, these loans are not abusive to consumers and should not be included in any new rules. Often community banks will work with customers to structure loans that ensure the customer is able to access safe and sustainable financing. While many community banks offer small-dollar loans with access to a customer's deposit account or a non-purchase security interest in a customer's vehicle title, it

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is common for some community banks to provide small-dollar loans without deposit account access or that are unsecured to long-time customers.

Community banks report that consumers seeking these loans often need them for one-time expenses such as funeral costs, moving expenses, vehicle repairs, emergency home repairs, or to purchase fuel for the winter season. In other cases, community banks indicate that they offer personal loans to customers with non-traditional employment and incomes who need assistance bridging the financial gap between seasonal jobs. Finally, many community banks offer small-dollar loans to customers to consolidate debt into a loan with a reasonable interest rate and an affordable monthly payment.

While community banks report they take various steps to underwrite personal loans, community banks indicate that they review an applicant's history with their bank before deciding whether to extend credit. Besides looking at the applicant's history, community banks also rely on other types of traditional underwriting criteria and practices including pulling a credit report on applicants.

Community banks also indicate that for smaller personal loans, they rely heavily on "soft" factors such as the length of their relationship with the consumer and stated income. These underwriting practices differ for larger loans, which often require additional documentation for factors such as income and financial obligations. Some community banks will not conduct a full ability-to-repay analysis for long-time customers where the cost of the analysis would make the loan unprofitable. Relationship lending provides community banks the ability to shape loans to unique circumstances and situations that should not be impeded by new rules.

Although, community banks fully underwrite small-dollar consumer loans, each community bank that makes small-dollar loans underwrites these loans in a way that works for them and their customers. Through years of experience, they have developed processes that allow them to make small-dollar loans as efficiently and cost-effectively as possible. Therefore, it is important that the Bureau not prevent community banks to continue offering such loans to their communities.

### **III. The CFPB must ensure that community banks can continue to provide safe and sustainable access to small-dollar credit.**

Community banks are an important source of safe and sustainable small-dollar credit and it would be extremely detrimental to consumers if community banks are forced from the small-dollar loan marketplace by onerous new regulations. If community banks are regulated out of this market, ICBA is very concerned about the options consumers will be left with, which could include unregulated and

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unlicensed predatory lenders. Given these factors, ICBA strongly encourages the Bureau to tailor any new rules so that they do not present new and undue regulatory burdens for community banks to continue to serve the small-dollar credit needs of consumers.

#### **IV. Provide an exemption from any new rules for federally regulated depository institutions, including community banks.**

The Bureau must recognize the stark differences between lenders that abuse consumers and the highly-regulated consumer banking industry. Section 1022(b)(3)(A) of the Dodd-Frank Act explicitly granted the Bureau the authority to tailor regulations by allowing the Bureau to “conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services” from its regulatory requirements. ICBA urges the Bureau to use this authority to provide an exemption in any final rule for responsible lenders providing safe and sustainable small-dollar credit. Considering that there is no evidence that community banks provide problematic small-dollar loans, ICBA believes that a total exemption for community banks from any new rules is warranted.

#### **V. Conclusion**

The impact any additional requirements would have on community bank small-dollar lending would be extremely detrimental to consumers if community banks are forced from the small-dollar loan marketplace by onerous new regulations. ICBA believes the Bureau must ensure that community banks have the needed flexibility to continue making small-dollar personal loans without new and undue regulatory burdens. That is why we are strongly encouraging the CFPB to provide an exemption from any final rules for community banks’ small-dollar lending.

Please contact Lilly Thomas, [Lilly.Thomas@icba.org](mailto:Lilly.Thomas@icba.org) or Joe Gormley, [Joseph.Gormley@icba.org](mailto:Joseph.Gormley@icba.org), at (202) 659-8111 with any questions regarding our comments. We look forward to working with the Bureau on this important issue to ensure that community banks can continue to provide safe and sustainable access to small-dollar credit.

Sincerely,

/s/

Viveca Y. Ware  
Group Executive Vice President  
Regulatory Policy

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