



JOHN H. BUHRMASTER
Chairman
JACK A. HARTINGS
Chairman-Elect
REBECA ROMERO RAINEY
Vice Chairman
PRESTON KENNEDY
Treasurer
TIMOTHY K. ZIMMERMAN
Secretary
WILLIAM A. LOVING, JR.
Immediate Past Chairman
CAMDEN R. FINE
President and CEO

Submitted electronically

June 9, 2014

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

Re: Amendments to the 2013 Mortgage Rules Under the Truth in Lending Act (Regulation Z) – Docket No. CFPB-2014-0009; RIN 3170-AA43

Dear Ms. Jackson:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to comment on the Consumer Financial Protection Bureau (CFPB) proposed rule to amend the 2013 ability-to-repay mortgage rules in Regulation Z, which regulates the Truth in Lending Act (TILA). The CFPB is proposing amendments to certain mortgage rules issued in 2013. The proposed

¹ The Independent Community Bankers of America® (ICBA), the nation's voice for more than 6,500 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.

ICBA members operate 24,000 locations nationwide, employ 300,000 Americans and hold \$1.3 trillion in assets, \$1 trillion in deposits and \$800 billion in loans to consumers, small businesses and the agricultural community. For more information, visit 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

amendments would provide an alternative small servicer definition for nonprofit entities that meet certain requirements, amend the existing exemption from the ability-to-repay rule for nonprofit entities that meet certain requirements, and provide a limited cure mechanism for the points and fees limit that applies to qualified mortgages. This letter is ICBA's first letter in response to these proposed amendments, and addresses the qualified mortgage (QM) points and fees limit cure mechanism. ICBA will be sending a second letter to address potential changes to the small creditor exception and the correction or cure of debt-to-income ratio overages in the QM rules.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides that QM loans are entitled to a presumption that the creditor making the loan satisfied the ability-to-repay requirements. Current rules provide that a covered transaction is not a QM if the transaction's total points and fees exceed certain limits. The CFPB is proposing to permit a creditor or assignee to cure an inadvertent excess over the QM points and fees limits by refunding to the consumer the amount of excess under certain conditions. These conditions include the requirements that the loan was originated in good faith as a QM, the cure is provided in the form of a refund to the consumer within 120 days after consummation, and the creditor or assignee maintains and follows policies and procedures for post-consummation review of loans and for refunding to consumers amounts that exceed the applicable limit.

First and foremost, ICBA greatly appreciates the willingness of the CFPB to review final mortgage requirements and make adjustments to better serve the community banking industry and its customers. We support this cure mechanism to the QM points and fees requirements, but have comments on how this proposed change can be improved for community banks.

In particular, the CFPB should not include the express provision that "the creditor originated the loan in good faith as a qualified mortgage" because the ability-to-repay/QM rules are already written to guarantee mortgage loans are made in good faith and the consumer has the ability to repay the loan. We think the additional requirements regarding "good faith" loans are not necessary and make the points and fees cure provision more cumbersome. Therefore, this section of the regulation and commentary should not be included as part of the points and fees cure mechanism.

In addition, ICBA supports allowing a reasonable period of time for community banks to correct inadvertent errors to the points and fees calculation and appreciates the CFPB's proposed change. However, we believe the 120-day time period should be increased to at least 180 days, so that financial institutions have enough time to correct any issues for their customers and still be in compliance with the ability-to-repay/QM requirements. Calculating points and fees under the Regulation Z QM rules can be an extremely technical and

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

complex process, and financial institutions, particularly smaller institutions such as community banks, should have enough time to correct miscalculations to be in full compliance with the requirements. Allowing a time period of 180 days will help community banks better serve their customers and correct any miscalculations which may occur, especially given the complexity of the QM requirements.

The CFPB also proposes that final amendments to this rule take effect 30 days after publication. ICBA supports the CFPB's amendments with the changes we recommended as well as an effective date of 30 days after publication for implementation.

On behalf of ICBA, thank you for reviewing these rules and making adjustments where they are appropriate. If you have questions about the comments in this letter, please feel free to contact me by telephone at 202-821-4469 or by email at Elizabeth.Eurgubian@icba.org.

Sincerely,

/s/

Elizabeth A. Eurgubian
Vice President & Regulatory Counsel

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