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ILLINOIS BANKERS ASSOCIATION
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May 24, 2017

Via Electronic Delivery to FederalRegisterComments@cfpb.gov

Ms. Monica Jackson
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Re: **Docket No. CFPB-2017-0010**; **RIN 3170-AA64**
Technical Corrections and Clarifying Amendments to the Home Mortgage Disclosure Act (Regulation C) October 2015 Final Rule With Request For Public Comment
82 Federal Register 19142 (April 25, 2017)

Dear Ms. Jackson:

The Illinois Bankers Association ("IBA")[1] is writing on behalf of its members to comment on the proposed rule ("Proposed Rule") to amend the changes made to Regulation C by the final rule adopted in October of 2015 ("2015 Final Rule").

We appreciate the Bureau's efforts in the Proposed Rule to correct technical errors, ease reporting burdens and clarify certain requirements in Regulation C. However, we respectfully request that the Bureau amend the Proposed Rule to increase the reporting thresholds for the Home Mortgage Disclosure Act ("HMDA"). In addition, we believe that certain provisions in the Proposed Rule that attempt to clarify requirements or ease burdens in the 2015 Final Rule actually would cause new and substantial compliance burdens for our community bank members.

The Bureau Should Raise the 2015 Final Rule's Reporting Thresholds

The 2015 Final Rule's thresholds for HMDA reporting remain too low in the Proposed Rule — at 25 closed-end mortgage loans and 100 open-end lines of credit. Raising the reporting thresholds to at least 250 closed-end mortgage loans and 1,000 open-end lines of credit would continue to support the HMDA's stated purposes while minimizing interference in community bank lending.

The HMDA's three stated purposes are to: (1) determine whether financial institutions are meeting their communities' housing needs, (2) assist public officials in determining where to make public sector investments, and (3) identify possible discrimination and enforce anti-discrimination statutes. 12 CFR 1003.1(b). Requiring low-volume community banks to compile and report HMDA data does little to advance these purposes. These smaller institutions often are the sole source of credit for rural and underserved areas, and the burdens of HMDA reporting consume what to them are huge amounts of

[1] The Illinois Bankers Association is a full-service trade association dedicated to creating a positive business climate that benefits the entire banking industry and the communities we serve. Founded in 1891, the IBA brings together state and national banks and savings banks of all sizes in Illinois. Over 30% of IBA members are community banks with less than $100 million in assets, and over 60% of IBA members are community banks with less than $250 million in assets. Collectively, the IBA represents nearly 90% of the assets of the Illinois banking industry, which employs more than 100,000 men and women in over 5,000 offices across the state.

resources — all to report as few as 25 loans, an imperceptible drop in the bucket of the more than fourteen million mortgage loans reported each year.[2]

Unfortunately, the fact that a small institution is reporting so few loans does not translate into lower compliance costs for the lender. Regulation C's complicated reporting forms and stringent requirements for accuracy of data submissions apply equally to all HMDA reporters, regardless of the size of their loan application registers ("LARs"). And concerns about the costs and risks of HMDA reporting are becoming dire. When the bulk of the 2015 Final Rule goes into effect in 2018, HMDA reporting obligations will more than double — growing from 23 to 48 total data points. One of our smaller community bank members has calculated that its additional employee time required to fully comply with the 2015 Final Rule will almost quintuple, from 300 employee hours in 2016 to more than 1,400 employee hours in 2018.

Many of the new data points will consume substantial resources of a low-volume institution that could be better devoted elsewhere. Here are just some of the HMDA reporting-related activities that already have begun consuming the time and resources of smaller community banks following the 2015 Final Rule: (1) substantially overhauling their loan origination systems, (2) purchasing and implementing new HMDA reporting software and other software products used to transfer and compile data from different areas of the bank, (3) hiring and training new employees and retraining current employees for proper implementation, (4) pulling compliance staff away from other compliance responsibilities, (5) pulling loan origination and other non-compliance personnel away from their core missions, (6) creating and maintaining new compliance monitoring and auditing systems and procedures for the new HMDA reporting, and (7) tracking pronouncements for further changes, such as those in the Proposed Rule and ensuing guidances.

As noted in the Proposed Rule, section 305(a) of the HMDA broadly authorizes the Bureau to prescribe regulations that include "such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary and proper to effectuate the purposes of [the HMDA], and prevent circumvention or evasion thereof, or to facilitate compliance therewith." We urge the Bureau to exercise its discretion and adopt reasonable minimum thresholds of at least 250 closed-end loans and 1,000 open-end lines of credit so as to effectuate the HMDA's purposes without crushing community bank lending.

Some of the Proposed Rule's Changes Would Create New Compliance Burdens

The length and complexity of the 2015 Final Rule and the Proposed Rule amplify our concerns about the HMDA's reporting burdens. In our comment letter on the proposal preceding adoption of the 2015 Final Rule, we raised a number of concerns about the burdensome and even unworkable new data points, which remain in the 2015 Final Rule. Each of the 2015 Final Rule's 48 data points — some of which may seem at first blush to be simple — come with a labyrinth of rules and official comments, exceptions, exemptions, and exceptions to exemptions, accompanied by stringent error thresholds and the threat of costly data resubmissions. In some cases, the Proposed Rule adds even more complexity and compliance burdens. While not an exhaustive list, some of our new concerns are noted below.

We are very concerned about the proposed requirement to report the rate spread between the applicable average prime offer rate ("APOR") and a loan's annual percentage rate ("APR"). Under the Proposed Rule, if an applicant enters into a rate-lock agreement with the lender, the APOR used for this comparison must correspond to the date of the rate-lock agreement. But if the lender grants an extension to the rate-lock agreement, the APOR must be pulled again as of the extension date, and the loan's LAR entry must be updated — even though none of the loan terms have changed. This data point would become a problem for loans subject to multiple rate-lock extensions, such as construction loans, which are subject to frequent delays, and for consumer mortgage loans, which increasingly are experiencing delayed closings due to the Know Before You Owe disclosure requirements.

[2] The Bureau's HMDA webpage states there were 14,373,184 total reported loans in 2015 (2016 data is unavailable). Twenty-five closed-end loans would represent less than 0.0002% of this total, or less than one half-millionth of the reported loans. Even with our proposed reporting threshold for closed-end loans, 250 loans would represent less than 0.002% (one fifty-thousandth) of this total.

We also are concerned about the Proposed Rule's definition of "multifamily dwelling," which would require a single loan secured by five or more single-family dwellings to be reported as secured by a multifamily property with a single address. This may seem like a minor departure from the meaning of "multifamily," but we foresee at least two problems. This definition could skew the HMDA data for a reporting institution; a rural bank lending in low-density areas could be forced to report more multifamily transactions than had actually occurred, suggesting a focus on apartment complexes and even high-rises rather than the bank's true rural lending focus. The Proposed Rule also establishes a complicated decision tree whereby the reporting of a loan made to improve commercial space in a mixed-use property depends in part on whether the mixed-use property is a multifamily dwelling; however, it does not address how this decision tree would operate when reporting a loan made to improve commercial space in a single-family home that has been labeled as a "multifamily dwelling" by virtue of the proposed definition.

These are just some examples intended to demonstrate how these seemingly simple rules — multiplied by 48 data points — snowball into huge compliance burdens that will overwhelm low-volume community bank lenders. Rather than focusing on meeting their communities' credit needs while ensuring they are hewing to fair lending principles, they will be forced to expend their limited resources on interpreting these rules and their official interpretations, engaging consultants to figure out what they really mean, checking whether their software vendors and other third parties also have reached the same interpretations and can correctly implement them, and, as mentioned above, a great deal more.

Conclusion

The significant costs of complying with these complicated reporting requirements and their attendant risks for low-volume community bank lenders are not justified by the HMDA's stated purposes. Requiring low-volume lenders to report small numbers of loans would yield limited data at disproportionate costs. We respectfully urge the Bureau to review Regulation C's loan reporting thresholds in light of the concerns that we and other commentators have raised and to exercise its discretion and minimize the burdens of expanded HMDA reporting by significantly raising these thresholds.

The 2015 Final Rule and this Proposed Rule almost certainly will cause many community banks in Illinois to reconsider and limit the scope of their residential lending programs, particularly after the complete overhaul of residential loan disclosures and the mortgage servicing changes, plus the outpouring of other new rules ranging from new flood insurance requirements to the new customer due diligence requirements imposed by FinCEN. The way to ensure that Illinois' community banks meet the HMDA's goal of increasing credit availability for housing in our communities is by providing relief from unnecessary regulatory burdens wherever possible, not by enlarging and complicating those burdens.

Thank you for your consideration of our comments, and please let us know if you have any questions.

Very truly yours,

Bruce Jay Baker
Executive Vice President
and General Counsel