

**Congress of the United States**  
**Washington, DC 20515**

November 27, 2017

The Honorable Mick Mulvaney  
Acting Director  
Consumer Financial Protection Bureau  
1700 G Street, N.W.  
Washington, D.C. 20552

Dear Acting Director Mulvaney:

As you are aware, on October 28, 2015, the Consumer Financial Protection Bureau (CFPB) published the Home Mortgage Disclosure Act (HMDA) Final Rule, which expands public disclosure of loan-level HMDA data to include new data that is required to be reported beginning January 1, 2018. This data includes an applicant's credit score, debt-to-income ratio and a Mortgage Loan Originator/Nationwide Mortgage Licensing System & Registry (NMLS) Identifier, among others. While we understand the CFPB has tried to ensure financial institutions are prepared for the implementation of the 2015 HMDA Final Rule on January 1, 2018, given the scope of the new reporting requirements, banks and credit unions in our congressional districts continue to express concerns that there is a need for additional time to update technical infrastructure and add staff. In addition, the increased amount of data required under the new HMDA Final Rule together with recent data breaches raise concerns regarding the ability of the federal government to protect the personal and private data of its citizens. Therefore, we write to request the CFPB delay the implementation of the data collection and reporting requirements issued under the 2015 HMDA Final Rule for one year, and provide a "grace period" for those institutions that are ready and seeking to comply in good faith. We also request that the CFPB not publish any new HMDA data until it can conclude with absolutely certainty that there will be no increased risk to consumer privacy.

The CFPB's adoption of additional disclosure and reporting requirements<sup>1</sup> under the 2015 HMDA Final Rule present significant concerns to mortgage lenders, in particular community banks and credit unions. In less than two months, community lenders will be required to collect more than double the amount of data points currently required under HMDA<sup>1</sup>. While we support the intent of HMDA to ensure fair and equitable lending practices in our housing market, our community financial institutions have neither the infrastructure in place nor completed the appropriate training to properly collect, manage and protect this data.

A recent sample of community banks nationwide—conducted by the Independent Community Bankers of America (ICBA)—found that implementation of the 2015 HMDA Final Rule is still continuing, and more than one-third of community banks are still unprepared to comply with the

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<sup>1</sup> For HMDA data collected on or after January 1, 2018, covered institutions will collect, record, and report data for 48 unique fields for each loan application, of which 25 are new, 14 are modified from current reporting requirements and 9 fields remain unchanged. Under the 2015 Final Rule, covered financial institutions will now be required to collect a total of 110 data points for each loan application.

January 1, 2018 effective date. The American Bankers Association has reported that, in most instances, compliance system vendors would not have software necessary to implement the new HMDA requirements until the October or November timeframe. This leaves little time to properly install, and test their systems, which must be accompanied by formal staff training.

Similarly, a survey undertaken by the National Association of Federally Insured Credit Unions (NAFCU), found that only 10 percent of credit unions have received final updates from their vendors regarding their preparedness to comply with the new data collection requirements. Further, NAFCU found that respondents estimated an average of 19 hours to adequately train staff on the new HMDA data collection requirements, with initial training costs expected to average \$39,000 per credit union. A one-year delay in implementation and a grace period for institutions making good faith efforts to comply will mitigate a flood of potential compliance issues that will monopolize the time and resources of both regulators and community lenders alike, making it more difficult for consumers to access credit.

Furthermore, we are concerned that the CFPB has not adequately considered the privacy risks to consumers' private information posed by extensive new data collection and publication requirements, nor finalized the balancing test to determine which of the new data will be released to the public. This is especially troubling in light of recent data breaches in both the public and private sector, which exposed sensitive information about millions of U.S. consumers. While the CFPB has attempted to mitigate some of these issues with its September 20, 2017, Final Rule amending Regulation B which implements the HMDA, concerns remain about the increased risks to consumer privacy. The concerns were recognized by the CFPB itself as the nexus for the additional rulemaking. The 2017 Final Rule recognized these risks: "with respect to the HMDA data that will be reported to the agencies under the 2015 HMDA Final Rule and based on its analysis to date, the CFPB believes that public disclosure of the unmodified loan-level dataset, as a whole, would create risks to applicant and borrower privacy interests under the HMDA balancing test."<sup>2</sup> This lack of privacy—according to George Washington University Economics Professor Anthony Yezer—is "particularly a problem for minority borrowers for whom the 'risk' of re-identification is a virtual certainty," given the expansion of reporting requirements paired with modern computing techniques. In fact, Yezer has determined that "[r]e-identification is easiest for minority borrowers and those not using the largest lenders."<sup>3</sup> As such, the CFPB should not move forward with publication of any additional data until there is absolute certainty there will be no increased risks to consumer privacy.

We are not alone in raising these concerns. In a June 8, 2017, letter to the CFPB, Senators Rounds and Heitkamp requested a delay for compliance with the HMDA Final Rule. In their letter, our colleagues note that the final rule "more than doubles the amount of data required to be reported, significantly increasing the opportunity for penalties for minor data errors, especially for smaller lenders, many of whom will continue to compile their HMDA reports manually." It calls for an

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<sup>2</sup> Disclosure of Loan-Level HMDA Data, 82 FR 44586 (2017).

<sup>3</sup>Yezer, Anthony. "Personal Privacy of HMDA in a World of Big Data." Institute for International Economic Policy Working Paper Series, George Washington University. (2017). Access via: <https://www2.gwu.edu/~iiep/assets/docs/papers/2017WP/YezerIIEP2017-21.pdf>

extension of the January 1, 2018, effective date to assure that “financial institutions and their vendors have sufficient time to prepare to implement this rule.”

Additionally, in June 2017, the Treasury Department released a report entitled, “A Financial System That Creates Economic Opportunities-Banks and Credit Unions” which informs the Administration’s perspective to regulate the financial system. The Treasury Report recommended a delay in the HMDA reporting requirements, stating: “[f]undamental concerns remain about the efficiency of the HMDA regime, borrower privacy, and competitive harm to lenders through disclosure of proprietary information. The CFPB should delay the 2018 implementation of the new HMDA requirements until borrower privacy is adequately addressed and the industry is better positioned to implement the new requirements. The new requirements should be examined for utility and cost burden, particularly on smaller lending institutions.”<sup>4</sup>

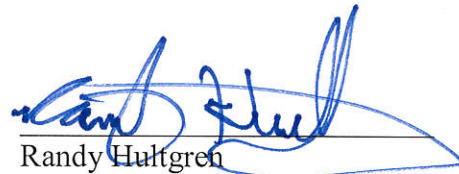
For these reasons, we strongly encourage the CFPB to delay the implementation of the 2015 HMDA Final Rule and provide a “grace period” for institutions that are ready and should not be penalized for attempting to comply in good faith. Moreover, the CFPB should not move forward with publication of new data until there is absolute certainty there will be no increased risk to consumer privacy. We stand ready to work with you on this issue, as a smooth compliance period benefits both consumers and financial institutions in our communities.

Thank you for your consideration of our request. Given the time-sensitive nature of the issue, we respectfully request your response no later than December 5, 2017.

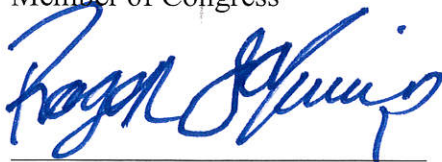
Sincerely,



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Member of Congress




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Member of Congress



Roger Williams  
Member of Congress



Frank D. Lucas  
Member of Congress




Mia B. Love  
Member of Congress



Roger W. Marshall  
Member of Congress

<sup>4</sup> <https://www.treasury.gov/press-center/press-releases/Documents/A%20Financial%20System.pdf>



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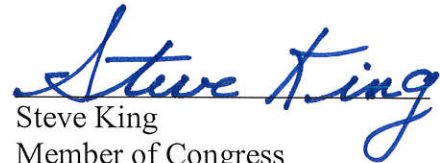
Walter B. Jones  
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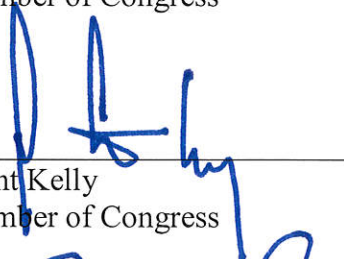
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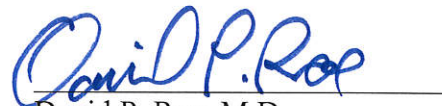
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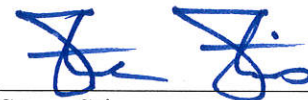
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Member of Congress



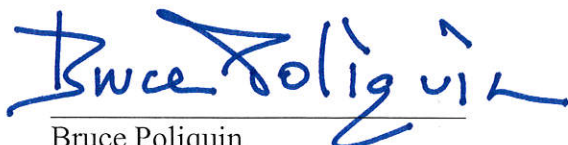
Steve Chabot  
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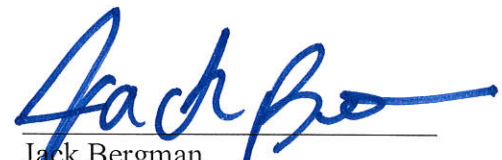
Lou Barletta  
Member of Congress



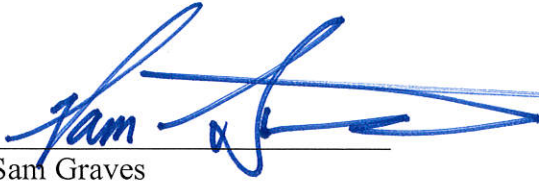
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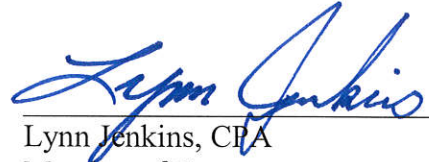
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