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August 4, 2023

The Honorable Rohit Chopra  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

**RE: Second Petition to Stay the Effective Date of the 1071 Rule**

Dear Director Chopra:

The Independent Community Bankers of America respectfully requests that the Bureau stay the effective date of its Section 1071 rule. Earlier this year, we wrote the agency and requested a stay following the Supreme Court's grant of certiorari to review the U.S. Court of Appeals for the Fifth Circuit's October 2022 decision that the Bureau's funding structure violates the Appropriations Clause of the U.S. Constitution. This week, the U.S. District Court for the Southern District of Texas entered an order enjoining the CFPB from implementing and enforcing the Section 1071 rule against members of the Texas Bankers Association and American Bankers Association until the Supreme Court makes a ruling in the *Community Financial Services* case. At the CFPB's request, the scope of the injunction was limited to members of the TBA and ABA – meaning only some community banks are protected by the District Court's injunction. In light of these troubling events, ICBA renews our calls for the CFPB to issue a nationwide stay of the effective date of its Section 1071 rule for all community banks.

The CFPB should not allow some, but not all, community banks covered by the Section 1071 rule to enjoy relief from implementing this onerous and complex rule. As such, ICBA strongly encourages the CFPB to exercise its nationwide authority to stay the Section 1071 rule for all covered institutions until the Supreme Court can provide all small businesses, community banks, and covered financial institutions with the needed certainty as to the final disposition and validity of the Section 1071 rule. The CFPB should move swiftly to provide this relief. It is deeply concerning that banks and trade associations must litigate this issue when the CFPB has full authority to resolve confusion, avoid arbitrary and unjust results about which banks can or cannot stay implementation of the Section 1071 rule pending a Supreme Court ruling, and can defer to the nation's highest court pending a decision in the *Community Financial Services* case.

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Notably, ICBA is not asking the Bureau to cease enforcement of existing rules, suspend supervision of major market participants, or even pause ongoing promulgation of other rules. However, given the uniqueness of the current situation and the number of uncertainties, we again ask the Bureau to ensure an even playing field for all banks and restore certainty and confidence until the Supreme Court can come to its decision. If you would like to discuss this further, please contact me.

Sincerely,

/s/

Rebeca Romero Rainey  
President and CEO

Cc: Seth Frotman, Acting Assistant General Counsel

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