

## Request for Public Comment on the Independent Community Banker's Application for a Trial Disclosure Waiver Template

The Independent Community Bankers of America (ICBA) has submitted an application under the CFPB Policy to Encourage Trial Disclosure Programs (TDP Policy) that aims to increase the availability of affordable single-close construction-to-permanent loans, i.e., a loan transaction that combines a construction phase loan with a permanent mortgage loan once the home is built, with a single closing and set of closing costs. According to ICBA, it is not uncommon in rural or small-town communities for first-time homebuyers to build their first home because there are limited existing affordable and good quality “starter” homes. ICBA states that community banks are the main suppliers of construction loan financing in many small towns and rural markets, and that many community banks are reluctant to offer such loans based on concerns about complying with certain requirements of the Bureau's Loan Estimate disclosure (LE) (12 CFR 1026.37) and Closing Disclosure (CD) (12 CFR 1026.38). The LE and the CD are primarily designed for the most common transactions - such as standard home purchase or refinance mortgage loans - rather than construction loans. ICBA believes that consumer understanding of construction loans would be improved by disclosures that ICBA views as more specifically tailored to such loans, and that more community banks would offer such loans if they could use such disclosures.

ICBA believes its proposed alternative LE and the CD will more fully disclose all the various components of a single-close construction-to-permanent loan. Purported improvements include:

- Expansion of the LE and the CD to distinguish information about the construction loan phase from information about the permanent loan phase when both phases are disclosed together;
- Disclosure of all fees and charges associated with the entire transaction so the consumer understands how much this financial transaction will cost them; and
- Addition of a new *Construction Cost Table* to disclose the total costs to build the home in one location, including the cost to build, consumer equity in the project, and any reserves for cost over-runs and other builder holdbacks.

ICBA is applying for a Trial Disclosure Waiver Template, which if issued by the Bureau would serve as the foundation for applications from lenders for a Trial Disclosure Waiver. As the Bureau explains in the TDP Policy, a TDP Waiver Template is (i) non-operative, i.e., it does not provide permission to conduct a trial disclosure program to any party, and (ii) non-binding on the Bureau. ICBA reports that four community banks have expressed interest in submitting an application if the Template is issued. The Bureau will review all such entity-specific applications for TDP Waivers separately to determine the appropriateness of granting them. If the Bureau were to grant one or more applications from those lenders or others, the lenders would be able to conduct in-market testing of alternative disclosures appropriately limited in time and scope. The Bureau could then issue a report about the testing results and, if the results showed improved consumer understanding, may consider whether regulatory changes are warranted.

The CFPB is seeking input from the public on ICBA's application. We welcome comments and information relevant to any aspect of the application, but are particularly interested in comments/information regarding:

- Consumer confusion about the terms of construction loans deriving from the way they are disclosed in the current LE and CD.
- The extent to which current construction loan disclosure requirements are suppressing the supply of such loans.
- The extent to which the proposed modified versions of the LE and the CD are a prima facie improvement over the current LE and CD for construction loans.
- Any suggested improvements to ICBA's proposed modified disclosures and testing parameters.
- Data regarding the impact, if any, that complying with the current LE and CD has had on community banks, especially those situated in small towns and rural markets, in offering construction loans in those markets.
- Data indicating the potential value ICBA's proposed disclosures have in improving consumers' understanding of the construction process and costs.