

New Capital Options for Community Banks Will Boost Local Economic Growth

On behalf of the nearly 6,000 community banks represented by ICBA, we thank Chairman Boustany and Ranking Member Neal for convening a Member Day Hearing on Tax Legislation. ICBA is pleased to take this opportunity to express our support for legislation sponsored by Rep. Kenny Marchant that will create new capital and organizational opportunities for community banks and thereby benefit the communities they serve.

The Capital Access for Small Business Banks Act (H.R. 2789). More than 2,000 community banks in the United States have chosen to organize under Subchapter S of the Internal Revenue Code, simplifying their taxation so that they may better serve their customers. Under current law, these banks, like other Subchapter S businesses, must have no more than 100 shareholders. While this outdated shareholder limit restricts capital raising opportunities for all Subchapter S businesses, it poses a particular challenge for Subchapter S banks, which are currently facing regulator demands for higher capital levels under the Basel III Capital Accords and other regulations. With limited or no access to the equity markets, community banks typically turn to their own shareholders to raise additional capital. A higher shareholder limit would create a new source of capital for these banks to meet the challenges of the current capital environment.

ICBA strongly supports H.R. 2789 which would allow a Subchapter S depository institution to have up to 500 shareholders. In addition, H.R. 2789 would such institutions to issue preferred stock, an option that is not currently available to them. Preferred stock is a valuable tool that allows a bank to raise capital without diluting ownership. A defining characteristic of community banks is community based ownership which ensures that the interests of owners are aligned with those of the communities they serve.

The Community Bank Flexibility Act (H.R. 3287). H.R. 3287 would allow a community bank to organize as a limited liability company (LLC), combining the benefits of pass through taxation with the limited liability of a corporation without the restrictions on the number and types of owners that apply to a Subchapter S corporation. H.R. 3287 would provide a five-year window in which a C or S corporation could reorganize as an LLC without triggering current income taxes at either the corporate or the shareholder level. H.R. 3287 will create much needed flexibility in organizational choice for community banks.

One Mission. Community Banks.®

ICBA is grateful to Rep. Marchant for introducing H.R. 2789 and H.R. 3287. These bills will help community banks raise capital and choose the organizational form that will best allow them to serve consumers, small businesses, and farmers and ranchers in the communities they serve.

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