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ICBA

INDEPENDENT COMMUNITY BANKERS *of* AMERICA®

ICBA Supports Legislation to Improve Regulation of Community Banks and Help Customers

On behalf of the more than 6,000 community banks represented by ICBA, thank you for convening today's hearing entitled: "Examining Legislative Proposals to Preserve Consumer Choice and Financial Independence." Many of the bills before the Committee today reflect provisions of ICBA's Plan for Prosperity community bank regulatory relief agenda. ICBA is pleased to submit this statement for the record and to note our support for the following bills:

The Financial Institutions Customer Protection Act (H.R. 766), introduced by Rep. Blaine Luetkemeyer, would help to curtail the abuses of Operation Choke Point. Among other provisions, H.R. 766 would provide that a banking regulator such as the Federal Deposit Insurance Corporation or the Federal Reserve would be prohibited from suggesting, requesting, or ordering a bank to terminate a customer relationship unless the regulator put the order in writing and specified a material reason for the action. This requirement would limit the opportunity for regulators to abuse their discretion and terminate long-standing banking relationships based on biased, unsubstantiated, and subjective notions of "reputational risk."

The Portfolio Lending and Mortgage Access Act (H.R. 1210), introduced by Rep. Andy Barr, would provide automatic QM status to any mortgage loan held in portfolio, including balloon payment loans. When a mortgage is held in portfolio, the lender holds 100 percent of the credit risk and has an overriding incentive to ensure the mortgage is safely underwritten and the borrower has the ability to repay. H.R. 1210 would give community bankers the flexibility they need to serve their customers.

Enforcement Safe Harbor for TRID Implementation (H.R. 2213), introduced by Reps. Steve Pearce and Brad Sherman, would provide a critical safe harbor from enforcement actions for compliance errors arising from the implementation of the Consumer Financial Protection Bureau's (CFPB's) Truth In Lending Act/Real Estate Settlement Procedures Act Integrated Disclosures (TRID), provided the lender has acted in good faith to implement and comply with new regulations. Without this safe harbor, consumer mortgage closings are likely to be delayed due to the enormous complexity of the new rules and fear of excessive enforcement actions for minor errors.

Financial Product Safety Commission Act of 2015 (H.R. 1266), introduced by Rep. Randy Neugebauer, would change the structure of the CFPB so that it is governed by a five member commission rather than a single director. Commission governance would allow for a variety of views and expertise on issues before the CFPB and thus build in a system of checks and balances that is absent in a single director form of governance. Other federal regulators with jurisdiction over financial services providers, including the Federal Deposit Insurance Corporation, the Federal Reserve, and the Securities and Exchange Commission, all function quite well with similar governance structures.

Small Bank Exam Cycle Reform Act of 2015 (H.R. 1553), introduced by Rep. Scott Tipton, would allow a highly rated community bank with assets of less than $1 billion to use an 18 month exam cycle. Under current statute and agency guidance, banks with assets of less than $500 million and a CAMELS rating of 1 or 2 are eligible for an 18 month exam cycle. All other banks are subject to a 12 month exam cycle.

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Preparations for bank exams, and the exams themselves, distract bank management from serving their communities to their full potential. For this reason, ICBA supports a 24 month exam cycle for highly rated community banks. Because examiners have more than sufficient information to monitor a community bank from offsite, we believe that this change would not compromise supervision, and would actually increase safety and soundness by allowing examiners to focus their limited resources on the true sources of risk.

Federal Savings Association Charter Flexibility Act (H.R. 1660), introduced by Rep. Keith Rothfus, which would create a new national charter option for federal savings associations. Under H.R. 1660, a federal savings association, or thrift, could elect to be regulated as a Covered Savings Association (CSA) with authority to exercise the full range of national bank powers. H.R. 1660 would provide flexibility for institutions to choose the business model that best suits their needs and the communities they serve, without having to go through the process or incurring the legal expense of converting to a national bank charter.

H.R. 1660 does not address whether the holding company of a CSA would become subject to regulation and supervision under the Bank Holding Company Act of 1956 (BHCA) once the CSA exercises national bank powers. The legal status of CSA holding companies should be clarified since the requirements of the BHCA and the Savings and Loan Holding Company Act (SLHCA) differ. Of special concern are grandfathered unitary savings and loan holding companies -- non-bank and commercial firms exempted from provisions of the SLHCA and BHCA by the Gramm-Leach-Bliley Act so long as their subsidiary thrifts exercise only thrift powers. These entities should not be granted full national bank powers without corresponding BHCA supervision and regulation. ICBA looks forward to working with Rep. Rothfus to clarify the status of CSA holding companies under the proposed legislation.

Financial Institutions Examination Fairness and Reform Act (H.R. 1941), introduced by Reps. Lynn Westmoreland and Carolyn Maloney, would go a long way toward improving the oppressive examination environment that many community banks experience during and following an economic downturn. Among other provisions, H.R. 1941 would create an Office of Independent Examination Review within the Federal Financial Institutions Examination Council and give financial institutions a right to an expedited, independent review of an adverse examination determination before the Office's Director or before an independent administrative law judge.

ICBA also supports the provisions of H.R. 1941 that would create more consistent and commonsense criteria for loan classifications and capital determinations. Establishing conservative, bright-line criteria will allow lenders to modify loans, as appropriate, without fear of being penalized. If these standards become law, they will give bankers the flexibility to work with struggling but viable borrowers and help them maintain the capital they need to support their communities.

The Reforming CFPB Indirect Auto Financing Guidance Act (H.R. 1737), introduced by Rep. Guinta, would effectively nullify the CFPB's guidance on indirect auto lending. In proposing and issuing guidance primarily related to indirect auto financing, the CFPB would be required to provide for a public notice and comment period, make available all studies, data, and other information on which the guidance is based, and meet other requirements intended to ensure the process is open, transparent, and responsive to public input. The CFPB would also be required to consult with the Board of Governors of the Federal Reserve System, the Federal Trade Commission, and the Department of Justice. ICBA suggests strengthening H.R.

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1737 by requiring the CFPB to also consult with the Federal banking regulators, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency.

Thank you again for holding this hearing and for the opportunity to submit this statement for the record. ICBA is committed to working with this committee to advance the bills noted above.

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