October 21, 2015

ICBA Statement on Legislative Proposals before the Financial Institutions Subcommittee

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 Reduce Regulatory Burdens on Main Street Job Creators." 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 set forth our views the following bills:

The TAILOR Act (H.R. 2896). ICBA strongly supports H.R. 2896, introduced by Rep. Scott Tipton. H.R. 2896 would promote tiered regulation of the financial industry by requiring the federal financial institutions regulatory agencies to tailor regulatory actions based on the risk profile and business model of affected institutions in order to limit the compliance impact, cost, liability risk, and other burdens without compromising regulatory or statutory objectives. The bill includes a five-year look-back, which would sweep in some of the most burdensome regulations on the books, as well as measures to ensure agency accountability. Tailoring or tiering would ultimately benefit consumers by promoting a competitive financial services landscape and ensuring that community banks have flexibly to meet their credit needs.

The Community Bank Capital Clarification Act (H.R. 2987). ICBA strongly supports H.R. 2987, introduced by Reps. Greg Meeks, Peter King, Carolyn Maloney, and Blaine Luetkemeyer. This bill would make a non-controversial amendment to the grandfather provision of the so-called Collins Amendment of the Dodd-Frank Act.

The Collins Amendment provides that a bank with assets of more than $15 billion may no longer treat the proceeds of Trust Preferred Securities (TruPS) as tier 1 capital. Community banks with assets of less than $15 billion are grandfathered from this restriction, provided the TruPS were issued prior to May 19, 2010. Tier 1 capital treatment is critical to the value of TruPS, as a bank's tier 1 capital defines the level of credit it may lend in its community. Unfortunately, the Collins Amendment uses an arbitrary date, December 31, 2009, to determine a bank's asset value and eligibility for the grandfather. What's more, a bank that drops below $15 billion cannot become eligible for the grandfather; it's a one-time determination. Many banks deleveraged following the financial crisis, with the encouragement of their regulators. If deleveraging brought them below $15 billion, they now find themselves at a competitive disadvantage. This is not the consistent with the purpose of the exception. Other provisions of Dodd-Frank, by contrast, use a "floating" asset threshold. This is appropriate, as the relevant consideration is the bank's *current* asset value, not its historical value on a specific, arbitrary date.

H.R. 2987 provides that when a community bank drops below $15 billion in assets, it is treated as if it had less than $15 billion in assets on December 31, 2009, but only for so long as it remains below $15 billion. H.R. 2987 will allow for more equitable application of the grandfather provision of the Collins Amendment and allow community banks to deploy more credit to support community development and job creation.

H.R. 2209. ICBA supports H.R. 2209, introduced by Rep. Luke Messer, which would allow certain municipal bonds to be considered high quality liquid assets for the purposes of the liquidity coverage ratio (LCR) rule. H.R. 2209 would promote a strong municipal bond market, which is vital to the prosperity of communities served by community banks.

The Preserving Capital Access and Mortgage Liquidity Act (H.R. 2473). ICBA is concerned about the impact of H.R. 2473, which could allow credit unions to become "Community Financial Institutions," a special of class of Federal Home Loan Bank (FHLB) membership currently reserved for FDIC insured banks with assets less than $1.1 billion. Community Financial Institution status could allow tax-exempt credit unions to pledge small business and agricultural loans as collateral for FHLB advances (secured loans). Small business and agricultural borrowers are already well served by community banks, according to recent surveys.

The National Credit Union Administration (NCUA) has issued a proposed rulemaking which could significantly weaken a series of prudential restrictions on member business lending. Viewed in the context of the NCUA proposal, H.R. 2473 could facilitate funding for business loans made possible by looser prudential restrictions, thereby creating more risk for the Share Insurance Fund, and ultimately taxpayers.

Thank you again for holding this hearing and for the opportunity to submit this statement for the record.