June 15, 2017

Regulatory Relief for Larger Community Banks Will Promote Economic Growth

On behalf of the more than 5,800 community banks represented by ICBA, we thank Chairman Crapo, Ranking Member Brown, and members of the Senate Banking Committee for convening today's hearing on "Fostering Economic Growth: Midsized, Regional and Larger Institution Perspective."

In recent years, a historic industry consolidation has increased the average asset size of all banks. As a result, community banks have grown larger and many are now beyond the threshold of $10 billion. Yet they retain the key characteristics of a community bank: a vested interest in the success of the communities they serve, a direct knowledge of the borrower and local economic conditions, and the ability to offer customized terms to suit the unique needs of their customers. ICBA is committed to securing regulatory relief for larger community banks, which will strengthen their ability to promote local economic growth and job creation.

ICBA is pleased to offer this statement for the record which describes the larger community bank provisions included in ICBA's Plan for Prosperity.

Capital

Basel III Amendments: Restoring the Original Intent of the Rule. Basel III was originally intended to apply only to large, internationally active banks. Non-systemically important financial institutions should be fully exempt from the rule.

Amend risk weighting to promote economic development. If community banks are not fully exempted from Basel III, ICBA supports restoration of 100 percent risk weighting for acquisition, development, and construction loans. Under Basel III, these loans are classified as high-volatility commercial real estate (HVCRE) loans and risk weighted at 150 percent. ICBA's proposed change would treat these loans the same as other commercial real estate loans and would be consistent with Basel I.

Additional Capital for Small Bank Holding Companies: Modernizing the Federal Reserve's Policy Statement. The Federal Reserve Board should be required to revise the Small Bank Holding Company Policy Statement — a set of capital guidelines that have the force of law. The Policy Statement, which makes it easier for small bank and thrift holding companies to raise additional capital by issuing debt, should be revised to increase the upper asset limit from $1 billion to $10 billion. Qualifying bank and thrift holding companies must not have significant outstanding debt or be engaged in nonbanking activities that involve significant leverage.

Repeal Collins Amendment for Non-SIFIs. The Collins Amendment to the Dodd-Frank Act (Section 171) was originally intended to equalize large bank and community bank capital treatment. In practice, however, the amendment limits regulators' discretion in implementing Basel III and has proved to be a stumbling block to simpler capital rules for community banks. ICBA supports an exemption under the Collins Amendment for non-systemically important financial institutions (non-SIFIs).

Accredited Investor Definition. Regulation D should be reformed so that anyone with a net worth of more than $1 million, including the value of their primary residence, would qualify as an "accredited investor." The number of non-accredited investors that could purchase stock under a private offering should be increased from 35 to 70.

Systemically Important Financial Institutions

More Accurate Identification of "Systemic Risk." The current threshold of $50 billion for the identification of "systemically important financial institutions" (SIFIs) under Title I of the Dodd-Frank Act is too low and sweeps in too many banks that pose no systemic risk and therefore do not need to be subject to higher prudential standards. A higher threshold and a more flexible SIFI definition under Title I would more accurately identify those institutions that pose systemic risk.

Stress Tests. Non-SIFIs should be exempt from stress test requirements. Larger community banks with assets well above the current stress test threshold of $10 billion in assets pose no systemic risk and therefore should not be required to perform costly and time-consuming stress tests. Some community banks have indicated compliance with these stress testing requirements can cost several million dollars on an annual basis.

Volcker Rule. Non-SIFIs should be exempt from the Volcker Rule prohibition against proprietary trading. Applying the Rule to non-SIFIs carries unintended consequences that threaten to destabilize segments of the banking industry.

Net Stable Funding Ratio. The asset threshold for banks subject to the rule should be raised from $50 billion to $100 billion.

Small Business Lending

Eliminate Burdensome Data Collection. ICBA supports full repeal of the statutory authority (Dodd-Frank Section 1071) for new small business loan data collection requirements. This provision, which will require the costly reporting of information regarding every small business loan application, will drive community banks out of small business lending and reduce access to credit.

Mortgage Lending

Safe Harbor for Portfolio Loans. Loans originated and held in portfolio by banks with less than $50 billion in assets, including balloon mortgages, should be granted "qualified mortgage" (QM) safe harbor status from the underwriting requirements of the ability-to-repay rule. When a community bank holds a loan in portfolio, it has a direct stake in the loan's performance and every incentive to ensure it is properly underwritten, affordable, and responsibly serviced.

HMDA Relief. A recent Home Mortgage Disclosure Act (HMDA) rule more than doubled the number of data fields lenders must report in connection with every loan application, forcing community banks to overhaul their systems and retrain staff at significant cost. ICBA supports repeal of the Dodd-Frank authority for expanded HMDA reporting. In addition, the loan-volume threshold for HMDA reporting should be increased to 1,000 closed-end mortgages and 2,000 open-end lines of credit. ICBA's recommended threshold would provide relief for many more small lenders without significantly impacting the mortgage data available to the CFPB or impairing the purpose of the HMDA statute.

Escrow Relief. Banks with assets of less than $50 billion should be exempt from escrow requirements for loans held in portfolio. Such banks have direct stake in protecting their collateral by ensuring taxes and insurance are paid on a timely basis.

Appraisals. In recent years, appraisal requirements have become more costly, and rural America is experiencing a critical shortage of appraisers. When a mortgage is held in portfolio, a bank should be able to substitute an in-house "property evaluation" for a full residential property appraisal completed by a licensed appraiser.

Preserve Community Bank Mortgage Servicing. Simplified servicing regulation would help preserve the important role of community banks in servicing mortgages and deter further industry consolidation, which is harmful to borrowers. The "small servicer" upper limit should be raised from 5,000 loans serviced to the greater of 30,000 loans serviced or $5 billion in unpaid principal balance on loans serviced.

Capital Requirements for Mortgage Servicing Rights. For banks with assets of $50 billion or less, reverse the punitive Basel III capital treatment of mortgage-servicing rights (MSRs) and allow 100 percent of MSRs to be included as common equity tier 1 capital.

1615 L Street NW, Suite 900, Washington, DC 20036 ▪ 202-659-8111 ▪ Fax 202-659-9216 ▪ www.icba.org

Examination and Supervision

Higher Threshold for CFPB Exams. All banks with assets of $50 billion or less should be exempt from examination and enforcement by the CFPB and instead be examined and supervised by their prudential regulators for compliance with consumer protection regulation. This change would allow the CFPB to better target their resources.

Exam Cycle. A two-year exam cycle for well-rated banks with up to $5 billion in assets would allow examiners to better target their limited resources toward banks that pose systemic risk. It would also provide needed relief to bank management for whom exams are a significant distraction from serving their customers and communities.

CRA Thresholds: The Community Reinvestment Act (CRA) asset thresholds should be modernized. The “small bank” limit should be raised from $305 million to $1.5 billion, and the “intermediate small bank” limit should be raised from $1.2 billion to $5 billion. The current thresholds do not reflect consolidation in the community banking industry and should be increased. Community banks prosper by reinvesting local deposits and serving all customers in their communities. Too frequent or intrusive CRA exams are unnecessary and force banks to expend resources that could otherwise be dedicated to serving customers.

Modernizing the Bank Secrecy Act. ICBA recommends raising the currency transaction report (CTR) threshold from $10,000 to $30,000 and indexing future increases on an annual basis for inflation. The current threshold, set in 1970, is significantly dated and captures far more transactions than originally intended. A higher threshold would produce more targeted, useful information for law enforcement. In addition, beneficial ownership information should be collected and verified at the time a legal entity is formed by either the Internal Revenue Service or other appropriate federal or state agency, rather than by financial institutions. This would provide uniformity and consistency across the United States.

SEC Rules

Sarbanes-Oxley Section 404(b) Relief. Provide an exemption from internal control audit requirements for banks with a market capitalization of $350 million or less. The current exemption applies to any company with market capitalization of $75 million or less. Because community bank internal control systems are monitored continually by bank examiners, they should not have to sustain the unnecessary annual expense of paying an outside audit firm. This provision would substantially lower the regulatory burden and expense for small, publicly traded banks without creating more risk for investors.

1615 L Street NW, Suite 900, Washington, DC 20036 ▪ 202-659-8111 ▪ Fax 202-659-9216 ▪ www.icba.org

Community-Based Funding Sources

<u>Promote Use of Reciprocal Deposits</u>. Reciprocal deposits allow a community bank to accept a deposit that exceeds the $250,000 insurance limit by distributing it through a network of banks and receiving reciprocal deposits from other banks in the network. This solution allows a large local depositor – such as a local government or foundation – to obtain insurance coverage and allows banks to accept an equivalent amount of deposits to support local lending.

Reciprocal deposits are defined as "brokered deposits" by the FDIC and for this reason could result in higher FDIC insurance premiums and a lower CAMELS rating for banks that hold them. Legislation is needed to provide a targeted exception for reciprocal deposits from the definition of a brokered deposit.

Studies have shown that reciprocal deposits act similarly to other core deposits: They are from local customers, earn the local interest rate, and are a stable source of funding. Because reciprocal deposits are wrongly governed by the law on brokered deposits, it is difficult for community banks to utilize their full potential.

Closing

Thank you again for convening today's hearing. ICBA encourages the Senate Banking Committee to take up legislation that embodies the provisions discussed above. We look forward to working with the Committee to craft meaningful regulatory relief for all community banks in the weeks ahead.

1615 L Street NW, Suite 900, Washington, DC 20036 ▪ 202-659-8111 ▪ Fax 202-659-9216 ▪ www.icba.org