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April 19, 2018

The Honorable Orrin G. Hatch
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Chairman Hatch and Ranking Member Wyden:

On behalf of the nearly 5,700 community banks represented by Independent Community Bankers of America (ICBA), I write to express our strong support for Section 109 of the Retirement Enhancement and Savings Act of 2018 (S. 2526) and to encourage you to advance this important legislation at the earliest opportunity.

Section 109 would update the laws governing S corporations to facilitate capital formation, among other provisions. ICBA strongly supported this section when it was included in the S Corporation Modernization Act of 2016 (S. 3181) in the 114th Congress, sponsored by Senators Thune and Cardin. Subchapter S of the tax code is outdated and unnecessarily restrictive in several respects. For example, it prohibits individual retirement accounts (IRAs) from holding shares in an S corporation. Many S corporation community bank owners would like to be able to tap IRAs to inject capital into their banks. This is particularly important as community banks are currently facing regulator demands for higher capital levels. With limited or no access to the equity markets and a shareholder limit of 100, community banks have limited means of raising capital. Section 109 would allow funds held in IRAs to be used to help meet the challenges of the current capital environment and to sustain and expand lending to small businesses and other borrowers. Income distributed from the bank to the IRA would be subject to unrelated business taxable income (UBIT). This provision would potentially benefit the approximately 2,000 community banks in the United States organized under Subchapter S.

Section 109 would also ensure that IRA-held shares in banks that convert to Subchapter S status may be purchased by the IRA's beneficiary during a limited, 120-day window and transferred out of the IRA without being deemed a "prohibited transaction" under the Internal Revenue Code. Shareholders who do not wish to have their shares held through an IRA should have the opportunity to make this transfer.

The Nation's Voice for Community Banks.®

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Thank you for including Section 109 the Retirement Enhancement and Savings Act. ICBA looks forward to working with you to advance this important legislation.

Sincerely,

/s/

Camden R. Fine
President & CEO

CC: Members of the Senate Finance Committee

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