



## **Obama Administration Financial Regulatory Reform Plan ICBA's Key Positions**

The events of the past two years show us that changes are needed in how our financial system is regulated, but we need to take a thoughtful approach that makes sense for the long-term. ICBA believes we must target areas that were the underlying source of our problems for additional oversight without harming the areas that have worked well, such as community banks, and balance protecting consumers with proper supervision and oversight of institutions.

Main Street community banks, their communities and their customers, should not bear the burden or pay the price for a financial and economic crisis that they did not cause. Community banks have been and continue to be well-run institutions using sound business practices—**Main Street should not be penalized for a crisis created by Wall Street.**

### **Dual Banking**

- Multiple federal banking agencies and the dual banking system, with its state and federal charters, provide checks and balances, which promote consumer choice, and a diverse and competitive financial system that is sensitive to financial institutions of various complexity and size. The administration's plan is a strong endorsement of the dual banking system and maintains multiple regulatory agencies.

### **Systemic Risk Regulation**

- ICBA supports strong systemic risk regulation and oversight and ensuring consolidated supervision of systemic-risk firms. It is clear that reckless lending and leveraging practices by systemically important institutions were at the root of the current economic crisis.
- ICBA is a strong advocate for enhanced consolidated supervision of systemically important institutions, including higher capital and liquidity requirements and limits on leveraging, to protect taxpayers from future bailouts. We support designating the Federal Reserve Board as the primary systemic risk regulator with the authority to examine the entirety of an institution, both bank and non-bank. Final legislation must ensure that the Federal Reserve and the Financial Services Oversight Council will use their new powers to effectively reduce systemic risk.
- ICBA supports giving the FDIC resolution authority for unwinding the systemic-risk firms, as provided in the proposal. The FDIC has extensive experience resolving banks and has the infrastructure in place to exercise conservatorship and receivership powers over financial companies.

- Reining in systemic-risk institutions will serve as a safeguard for the future so large, unwieldy mega institutions don't have the potential to yet again threaten our entire banking system and national economy. We should target systemic-risk institutions to reduce the dangerous concentration of financial and economic assets through the following measures:
  - Too-big-to-fail non-depository financial institutions should pay a fee to capitalize a systemic-risk fund comparable to the FDIC Deposit Insurance Fund --a separate segregated fund to cover the potential and actual FDIC expenses that would come as a result of obtaining broader resolution authority for systemic risk firms.
  - Systemic-risk institutions are too big or interconnected to manage, regulate or fail and should be downsized or required to divest sufficient assets so they no longer pose a systemic risk to our nation.
  - The 10 percent nationwide deposit concentration cap should be reduced or strengthened.
  - Large depository institutions should pay a systemic-risk premium to ensure they pay their fair share to the Deposit Insurance Fund to cover the risk they pose.
  - ICBA supports H.R. 2897 which would broaden the assessment base for FDIC deposit insurance premiums and create an additional risk-based assessment for too-big-to-fail banks that represent a systemic threat to our nation's financial system.

### **ILC Loophole/Separating Banking and Commerce**

- ICBA applauds the administration for strengthening the wall that separates banking and commerce by closing the ILC loophole – a top ICBA policy priority-- and agrees that all companies that own banks must be registered as bank holding companies or financial holding companies.
- Mixing banking and commerce through ownership of banks by commercial firms jeopardizes the impartial allocation of credit, creates conflicts of interest, and would lead to a dangerous concentration of commercial and economic power.

### **Consumer Protection**

- ICBA agrees we need to close the existing regulatory gaps in our system and employ effective safeguards to protect consumers from improper and abusive practices, but we have serious concerns about the creation of a single federal Consumer Financial Protection Agency to enforce and regulate consumer financial products and services. As currently proposed, such an agency would separate consumer policy and enforcement from safety and soundness enforcement, when all of these elements must co-exist and be

balanced for effective financial services regulation and enforcement. ICBA opposes this provision unless it is substantially changed.

- Bank regulators have expertise in balancing the safe and sound operation with the need to provide consumers information they need to make informed financial decisions and protect them from unfair and harmful practices.
- Without attention to safety and soundness, a consumer financial protection agency is likely to promulgate burdensome regulations that make many safe financial products, which are beneficial to consumers, unobtainable or too costly to offer.
- As currently structured, the CFPA would increase burdens on banks while providing little in the way of additional consumer protections and potentially creating a conflict with safety and soundness examinations.
- Community banks pride themselves on the safety and soundness of the loans they make and it's unnecessary that their customers be penalized for the poor practices of a few.
- ICBA is concerned with the CFPA's structure and the extent of its independence as an agency. Only through enhanced coordination among regulatory agencies can consumers be truly protected and a healthy and vibrant financial system maintained.

### **Thrift Charter**

- The federal thrift charter should be preserved and if the Office of Thrift Supervision (OTS) and the Office of the Comptroller of the Currency (OCC) are merged, thrift institutions should be subject to supervision and regulation by a separate division within the merged agency. Banks should be able to operate under the charter of their choice and there is no valid reason for eliminating the thrift charter. The great majority of thrift institutions are common sense, community banks and thrifts that did not engage in subprime lending.
- ICBA is pleased that the state thrift charter would be maintained under the proposal.

### **Financial Markets**

- A risk-retention requirement for mortgage-backed securities could be a useful tool in regulating risk associated with the securitization process, if coupled with an exemption from the retention requirement for mortgages subject to comprehensive standard underwriting requirements, such as loans sold to the GSEs or guaranteed by the FHA.
- ICBA strongly endorses stronger regulation of the OTC derivatives because of the central role credit default swaps played in the current financial meltdown.

## **Accounting Rules**

- ICBA agrees accounting standards should be reviewed to allow banks to employ more forward-looking loan loss provisioning practices and consider factors that would cause loan losses to differ from recent historical experiences. This would permit banks to build loan loss reserves earlier in the credit cycle. Fair value accounting should also be reviewed to identify changes to provide greater transparency about expected investment cash flows. The banking regulators should be included in the review process.
- The administration recommends that substantial progress be made by the end of 2009 in developing a single set of high quality global accounting standards. Any convergence of accounting standards globally should not increase complexity or disadvantage domestic small banks or businesses.