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June 28, 2010

The Honorable Harry Reid
Senate Majority Leader
S-221 Capitol Building
Washington, DC 20510-7020

The Honorable Mitch McConnell
Senate Minority Leader
S-230 Capitol Building
Washington, DC 20510-7010

Dear Majority Leader Reid and Minority Leader McConnell:

On behalf of the 5,000 members of the Independent Community Bankers of America, I write to express our strong support for the Small Business Lending Fund Act of 2010 (H.R. 5297), which passed the House on June 17. The Act would offer capital to interested community banks to use to increase small business credit. We urge the Senate to advance this legislation. The Nation's 8,000-strong community banks are well-positioned to leverage this fund and have established relationships with small businesses in their communities to get credit flowing.

Under the proposed \$30 billion fund, banks with less than \$1 billion in assets could receive capital investments up to 5 percent of their risk-weighted assets, and those with between \$1 and \$10 billion in assets could receive up to 3 percent.

ICBA firmly supports the central purpose of the program: To spur further lending to small businesses by means of community banks. ICBA believes the program's goals will be accomplished with a properly structured plan with incentives to participate and increase lending.

Notably, leveraging the \$30 billion funds with community banks would potentially support many times that amount in loan volume to small businesses -- as much as \$300 billion in additional lending. By reducing the dividend cost on the capital investment as lending increases, this program helps ensure more community banks have both the incentive and greater capacity to increase total loans to small businesses.

To make sure that the program achieves wide participation and its intended goals as it moves through Congress, ICBA strongly recommends any final proposal maintain these recommendations:

- There should be no counterproductive, TARP-like restrictions to receiving the investment, otherwise participation will be minimal and small business lending will suffer. For instance, there should be no warrants, no compensation restrictions, no bank dividend restrictions, and no restriction on generally available tax measures such as the five-year net operation loss (NOL) carryback for tax years 2009 and beyond.

- The government should not have the right to change the contract or add onerous conditions unilaterally. Participants should have certainty the rules of the contract will not change once they have agreed to support the program. Therefore, banks should be able to return the investment at any time without penalty and should be able to keep the investment for at least five years or more to better facilitate small business loan durations.
- Dividend payments on the capital should be suspended for one year until the small business loans can be underwritten and put in place.
- The broadest number of community banks possible should be eligible to participate. For instance, banks with composite CAMELS ratings of 3 or higher should be automatically eligible and banks with composite CAMELS ratings of 4 should be eligible to participate after approval. Banks with CAMELS ratings of 1 and 2 generally have enough liquidity and capital to make small business loans without investment from the proposed fund. The fact that a community bank is subject to a supervisory order should not disqualify it from participating.
- If a bank's financial position is to be considered, the status should be based on the bank's post-SBLF investment capital position, i.e., include the impact of the capital injection from this proposal. This can allow more banks to be well-positioned to expand small business lending.
- In addition, special consideration should be given to minority banks given their roles in promoting the economic viability of minority communities and their financial service in often difficult economic environments.
- Furthermore, all types of banks should be able to participate, including Subchapter S, mutual banks and holding companies on equally fair terms.
- Treasury should have the ability to make the final capital injection decision after consultation with the bank regulators. The application eligibility and approval process must be well-defined and transparent so bank access to the program will be fair and consistent.
- Existing TARP CPP recipients should be able to easily transfer from the CPP program into the new program and be subject to the new program rules and released from their existing TARP restrictions.
- All Community banks that participate should be able to treat the investment as Tier 1 capital and the definition of small business loans should be broad enough to include all small business loans including agriculture loans.
- Treasury should implement a relatively easy way to report an institution's small business lending using existing financial reporting banks are already mandated to produce.
- Finally, credit unions should not be eligible to participate in the program since they are subject to statutory restrictions on commercial lending and are tax-exempt. Many federal, state, and local governments are struggling to manage

difficult budgets and should not forfeit even more tax revenue by displacing taxpaying activity to the tax-exempt credit union sector.

ICBA believes the proposed Small Business Lending Fund Act supports these recommendations and this fresh program approach will attract a broader spectrum of community banks to boost small business lending and job growth. We applaud the new program focused on getting funds to Main Street small businesses using Main Street community banks.

Thank you again for considering this positive plan. The ICBA looks forward to working with Senate and all of Congress to help advance this effort so that community banks can continue to aid in our nations' economic recovery.

Sincerely,

/s/

Camden R. Fine
President and CEO

cc: Members of the United States Senate