



The Dodd-Frank Wall Street Reform and Consumer Protection Act: Investor Protections

SOX 404 Exemptions

- **Background:** The new law includes an ICBA-advocated provision that exempts publicly held companies with less than \$75 million in market capitalization from the auditor attestation requirements of Sarbanes-Oxley Section 404(b).
- **ICBA Position:** ICBA led the fight for this exemption since Sarbanes-Oxley was enacted in 2002 and was successful in delaying its effective date for five years.
- **What's Next:** The exemption takes effect upon enactment.
- **What It Means for Community Banks:** *These community banks will have reduced regulatory costs, leaving more revenue to lend to small businesses and consumers.*

Risk Retention or “Skin in the Game”

- **Background:** The legislation gives regulators the authority to exempt or reduce the 5 percent risk-retention requirement for low-risk residential mortgage loans that are securitized and sold into the secondary market. The legislation provides that Federal Housing Administration, Veterans Administration, Rural Housing Service, Farm Credit Administration and Farmer Mac loans are exempt from the risk-retention requirement. Further, the legislation gives regulators the authority to exempt from risk-retention requirements certain low-risk commercial loans that are securitized and sold.
- **ICBA Position:** ICBA advocated for these exemptions and additional regulatory flexibility to benefit community banks and their communities.
- **What's Next:** The federal bank regulators, the Securities and Exchange Commission, the Department of Housing and Urban Development and the Federal Housing Finance Agency have 270 days after the bill's enactment to issue joint regulations implementing these provisions.
- **What It Means for Community Banks:** *Exempting low-risk residential and commercial loans from the “skin in the game” requirements will help community banks to serve the housing and small business needs of their communities.*

Executive Compensation

- **Background:** With respect to all publicly held companies, the legislation provides shareholders with a nonbinding vote on executive compensation, or a “say on pay.” Compensation committees are required to include only independent directors and have the authority to hire compensation consultants. Companies also are required to establish policies to recover executive compensation in certain circumstances (“clawback”). The SEC and the exchanges have the ability to exempt small companies from “say on pay” and the compensation committee requirement.
- **ICBA Position:** ICBA supports community bank exemptions from executive compensation disclosures, independent compensation committees and “say on pay” provisions.
- **What's Next:** The SEC will release rules on executive compensation over the next year.
- **What It Means for Community Banks:** *Publicly held community banks that are SEC filers will be subject to these rules unless ICBA is successful in convincing the regulators to exempt them.*

Credit-Rating Agencies

- **Background:** The new law requires the SEC to examine credit-rating agencies at least once a year and can deregister agencies for providing bad ratings over time. Agencies also must meet new disclosure requirements, and compliance officers are prohibited from working on ratings methodologies or sales.
- **ICBA Position:** ICBA did not take a position on these provisions.
- **What's Next:** The law generally requires rulemaking to be completed within a year.
- **What It Means for Community Banks:** *Closer regulatory examination of credit rating agencies.*