



COMMUNITY FOCUS 2020:

The Community Bank Agenda for Expanding Economic Opportunity

2020 Legislative and Regulatory Agenda

Community Focus 2020:

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Community banks are local financial institutions that serve their customers and communities in unparalleled ways. By channeling \$3.4 trillion in loans to local consumers, small businesses, farms and agricultural enterprises, community banks spur job creation, foster innovation and help realize their customers' goals in communities throughout America.

Comprising 99 percent of U.S. bank charters, community banks make nearly 60 percent of the nation's small-business loans and nearly 80 percent of agricultural loans from the commercial banking sector. They are the nation's preeminent source of capital for Americans who wish to put their deposits to work in their own communities.

Serving the nation's rural, suburban and urban communities with more than 52,000 locations, and a presence in every congressional district, strong and prosperous community banks are critical to ensuring that every local community can join in the nation's broad economic prosperity. In more than 600 counties—nearly one in five U.S. counties across the country—a community bank is the only physical banking presence.

To better disperse economic opportunity across and throughout every local community, ICBA's Community Bank Agenda for Expanding Economic Opportunity supports economic principles that every member of Congress and policymaker can stand behind. ICBA and community banks across the nation support a more efficient system of regulation, unbiased laws governing the financial sector, a safer and more secure business environment, and more effective agriculture policies. The plan includes specific, common-sense recommendations developed by community bankers to establish a level regulatory and competitive playing field that allows them to better serve customers while also preserving consumer protections and bank safety and soundness.

ICBA and community bankers look forward to working with policymakers on advancing this agenda.

COMMUNITY FOCUS 2020:
Regulatory Agenda





Regulatory Relief

ICBA seeks to reduce excessive and unnecessary government regulation while supporting greater regulatory accountability. The measures below will provide meaningful relief from regulations that impede community banks' ability to serve their customers and communities, and will strengthen consumer protection and safety and soundness.



Simplifying Capital Standards for Community Banks

ICBA supports the Community Bank Leverage Ratio but urges an 8 percent benchmark and liberalized eligibility requirements in order to include more banks that are well-capitalized under risk-based standards. An 8 percent ratio is more consistent with Basel III and Prompt Corrective Action requirements as well as the leverage requirement for credit unions. Regulators should move to finalize simplification of the Basel III requirements for community banks, including exempting community banks from the High-Volatility Commercial Real Estate requirements and eliminating the punitive treatment of mortgage-servicing rights, deferred tax assets, and investments in other banks.

Relieving Burden with Short-Form Call Reports

To meet congressional intent and provide adequate relief, the community bank short-form call report for the first and third quarters should contain the key financial information provided in the income statement, balance sheet, and changes in shareholders' equity. At mid-year and year-end, banks would file the full-form call report. Such a short-form call report would reduce the time required to meet call reporting obligations and assist in reducing the overall regulatory burden faced by community banks, without negatively impacting effective supervision and examination. Efforts to streamline the call reporting process for community banks will not provide meaningful regulatory relief without the elimination of entire reporting schedules.

Promoting Access to Funding

ICBA supports a more flexible definition of what is considered a “deposit broker” under the Federal Deposit Insurance Act. The FDIC should reform its process for calculating national deposit rate caps so that they allow community banks to pay competitive rates to obtain deposits through a listing service or third-party broker. The FDIC should enforce rate caps only on less-than-well-capitalized institutions.

A More Efficient and Effective Bank Secrecy Act/Anti-Money Laundering Compliance Framework

ICBA strongly supports BSA/AML reforms that would ease community banks' compliance burdens while providing more useful data to law enforcement. We urge policymakers to move expeditiously to realize these benefits, including through:

- » Treasury and banking agency efforts to develop risk-based BSA compliance examinations and identify low-risk transactions and accounts;
- » The Office of Foreign Asset Control streamlining and simplifying its watch lists of terrorists for ease of reference and application by bankers;
- » FinCEN efforts to simplify and streamline information sharing and certain BSA forms and other reporting requirements; and
- » Additional guidance—such as best practices, questions and answers, or commentary—that is understandable, workable and easily applied by community banks.

Modernizing the Community Reinvestment Act

The Community Reinvestment Act (CRA) was enacted in 1977 to ensure that banks serve the convenience and needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation. This mission is the essence of what community banks do. Any CRA modernization effort should:

- » Establish a transparent, consistent and timely examination process;
- » Adjust asset thresholds to reflect the current banking environment;
- » Permit community banks to identify and delineate their CRA assessment areas instead of regulators;
- » Expand and consistently apply CRA-qualifying activities;
- » Provide community banks the option of using the current framework; and
- » Provide accommodations for minority- and women-owned banks and for certified Community Development Financial Institutions.

In summary, any modernization effort should clarify and enhance the ability of banks of all charter types and sizes to serve their communities, which will inevitably improve access to credit for all neighborhoods, including LMI neighborhoods.

CECL and Accounting Standards

ICBA has serious concerns about the costs involved with implementing the Current Expected Credit Loss (CECL) accounting standards. Fortunately, in its final version of the standards, the Financial Accounting Standards Board determined that smaller institutions should be allowed to utilize existing processes to project future credit losses. Regulator and auditor expectations and requirements should be consistent with that view. ICBA supports the agencies' rule that allows a three-year phased recognition of CECL for capital calculations and also urges allowing loan-loss reserves to be included as part of tier one capital. In developing accounting standards, provisions should be made for smaller financial institutions and businesses regardless of their financial statement reporting requirements so that the cost of implementing the standards does not outweigh the benefit to financial statement users.

Promoting De Novo Bank Formation

ICBA supports a flexible and tailored supervisory policy for de novo banking applicants. Capital standards, exam schedules, and other supervisory requirements should be based on the pro forma risk profile and business plan of the applicant and not on a standard policy that applies to all de novo bank applicants. The FDIC should streamline its application process for de novo banks, particularly regarding business plans.

Ensuring Community Bank Input into CFPB Rulemaking

ICBA urges the Consumer Financial Protection Bureau (CFPB) to ensure that adequate public input is obtained and considered, especially from community banks qualifying as small entities, as it engages in rulemaking or development of interpretive rulings and guidance. In addition, ICBA urges the CFPB to cease the issuance of stand-alone interpretive rule guidance without opportunities for public notice and comment as required by the Administrative Procedures Act and to submit all existing and future interpretive guidance to Congress for review.

Ensuring Fair Enforcement

The banking agencies' and CFPB's use of enforcement actions—including charges of unfair, deceptive, or abusive acts or practices—as a means of regulating marketplace behavior creates compliance uncertainty for community banks and threatens to reduce access to credit and other financial products and services. Regulators should work with appropriate industry stakeholders to develop authoritative written guidance that provides clear examples of permitted and forbidden practices and clarifies gaps or interpretive questions that arise in existing rules.

Updating Regulation D

Under Regulation D, transaction accounts are subject to higher reserve requirements than savings accounts; however, savings accounts are considered transaction accounts if they allow more than six transfers or withdrawals per statement cycle. The six-transaction limit is an arbitrary threshold that should be updated to allow a broader category of unlimited transfers from computer, online, and mobile platforms and permit bank-initiated transfers to facilitate overnight sweeps. Pre-authorized transfers to cure overdrafts should also be allowed.



Competitive Landscape

ICBA is a strong and long-time advocate for a level playing field, and a fair competitive landscape, between banks and nonbank providers of financial services. Simply put, nonbank providers need to adhere to the same rules of the road as banks. This means adhering to consumer protection laws and regulations as well as supervision and examination and data security requirements.

Reining in Runaway Tax-Exempt Credit Unions

The National Credit Union Administration consistently pushes the envelope and acts as a cheerleader for the tax-exempt credit union industry. ICBA continues to oppose attempts by the NCUA to flout statutory limits and liberalize restrictions on fields of membership, member business lending, and issuing supplemental capital. ICBA also advocates for:

- » Subjecting credit unions to the Community Reinvestment Act,
- » Greater disclosure of credit union compensation on IRS Form 990, and
- » Reciprocal supervision of credit union-bank conversions and mergers so that it will be no more difficult from a regulatory standpoint for a bank to acquire a credit union than for a credit union to acquire a bank.

Preserving the Separation of Commerce and Banking

To maintain the long-standing separation of banking and commerce and ensure the safety and soundness of the banking system, ICBA urges imposition of a moratorium by the FDIC on industrial loan corporation deposit insurance applications. A moratorium will allow Congress to debate and determine the future of the American financial services landscape and whether the federal safety net should extend to commercial, big data or e-commerce conglomerates. Otherwise, large technology companies like Square and Amazon are likely to form ILCs, resulting in privacy and conflicts of interest concerns for the banking system.

Creating a Level Playing Field with Fintech

Although ICBA strongly encourages further community bank partnerships with fintech companies and supports responsible innovation, the Office of the Comptroller of the Currency's special-purpose national bank charter presents serious concerns. The OCC should not issue special-purpose charters for fintech companies without explicit statutory authority from Congress. Furthermore, such a charter should be subject to the same standards of safety, soundness and fairness as other federally chartered institutions.

Regulating Nonbank Payment Providers

The emergence of nonbank payments providers adds risk and threatens the integrity of the payments system because these providers are not subject to the same safety and soundness or oversight and examination requirements as banks. This places consumers and small businesses using these services at greater risk. ICBA strongly supports subjecting nonbank payments providers to the same privacy, security, consumer protection, and other legal and regulatory requirements as banks. Technologies should be safe and secure, be subject to the same regulations and consumer protections as banks, and enable banks—regardless of size, charter type or location—to play an active role in the customer relationship.

Supporting Responsible Community Banking

Community banks are responsible, relationship lenders that underwrite based on firsthand knowledge of their customers and consequently are familiar with their financial condition, history and ability to repay loans. Community banks thrive based on the strength of their reputations and have every incentive to make fair, common-sense, and affordable loans and other products that will positively affect the lives of consumers and small businesses. Consequently, they do not need prescriptive regulations and reporting requirements to compel them to do so.



Promoting Community Bank Small-Dollar Lending

As the CFPB reconsiders its payday, vehicle title, and similar small-dollar lending rule, it should consider ways to promote a sustainable product that can be offered by depository institutions. Any new rule should at a minimum maintain the exemption from the onerous full-payment test or the principal-payoff option for lenders that make 2,500 or fewer covered short-term or balloon-payment small-dollar loans per year and derive no more than 10 percent of revenue from such loans. This will provide community banks the flexibility to continue providing safe and sustainable small-dollar loans to customers who need them most, on terms that work for community banks and their customers without new and onerous regulatory burden.

Preserving Small Business Credit Access

ICBA supports the repeal of Dodd-Frank Act Section 1071, which requires lenders to collect and report 12 data points in connection with credit applications made by women- or minority-owned businesses as well as all small businesses. Because every small business loan and small business borrower is unique, it is virtually impossible to draw valid comparisons of terms from one loan to the next to gauge fair lending compliance. Fears of unfounded fair lending violations will lead to homogenized loan terms, less customization of small business loans to meet borrowers' needs, and reduction in access to credit. Failing legislative repeal, ICBA urges the CFPB to use its statutory authority to exempt community banks from data collection and reporting, limit any collection to data points required by statute, and prioritize protecting customer privacy as it considers new data-reporting requirements.

Meeting Mortgage Borrower Needs

The existing mortgage regulatory regime is voluminous, extremely technical, and needlessly prescriptive. Current regulations are eliminating financial options and forcing standardization of products. ICBA recommends numerous balanced fixes to the mortgage rules to refine and simplify application, including streamlining and clarifying disclosure timing and methodologies under the TILA-RESPA Integrated Disclosure rules, addressing tolerances, and allowing consumers to waive the three-day waiting period between receipt of the final closing disclosure and consummation. Other changes needed to meet borrower needs are flexibility in underwriting mandates under the Ability to Repay/Qualified Mortgage rule and refining liabilities and cures available under the rules. ICBA also urges the CFPB to address compliance questions through written, authoritative guidance and frequently asked questions.

Increasing the Small-Servicer Exemption Limit

To preserve the role of community banks in mortgage servicing, where consolidation has clearly harmed borrowers, the CFPB's small-servicer exemption limit should be increased from 5,000 loans to 30,000 loans or a maximum principal balance of \$5 billion in mortgages serviced. New regulation has approximately doubled the cost of servicing with a direct impact on the consumer cost of mortgage credit. Community banks above the 5,000-loan limit have a proven record of strong, personalized servicing and no record of abusive practices.

Increasing Home Mortgage Disclosure Act Reporting Thresholds

ICBA strongly supports increasing the loan-volume thresholds to ease the reporting burden for more community banks. The CFPB should increase the 500-loan threshold for the partial exemption (from reporting the expanded data fields) and increase the 25-loan limit for the full exemption from reporting for small-volume lenders. The 25-loan exemption was touted as eliminating 1,400 Home Mortgage Disclosure Act (HMDA) reporters from the rolls, but this threshold exempts less than 0.5 percent of all HMDA-reportable loans. Increasing the thresholds would not significantly affect the mortgage data available to the CFPB or impair the purpose of the statute.

Improving Fair Lending Exams

Community banks must be protected from false allegations of fair lending violations and the misapplication of fair lending laws. ICBA urges regulators to use consistent and transparent standards, legal theories and methodologies when evaluating a community bank's fair lending compliance while preserving the confidentiality of specific community bank information. ICBA strongly supports aligning fair lending rules with the Supreme Court's ruling in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*

Supporting Community Development Financial Institutions

Community banks strive to improve the financial health of their customers and communities, particularly in low- and moderate-income areas. Many community banks have attained the special designation of being a Community Development Financial Institution (CDFI), which recognizes their dedication to providing financial services to populations and businesses located in underserved markets. These banks have community development missions and a reputation for lending responsibly in low-income communities. ICBA supports full funding for the CDFI Fund, which is used to help CDFI banks continue to innovate and help their communities. Additionally, ICBA supports creating a legal and regulatory framework that promotes more community banks becoming CDFIs and provides increased opportunities for community banks to benefit from this special designation, such as an automated or streamlined application for community banks located in low-income areas and CRA compliance accommodation.





Community Bank Innovation

Given their nimble nature, community banks are well-positioned to take advantage of the opportunities in the fintech landscape—opportunities that present potential new sources of income, reductions in risk and fraud, increased efficiency, and improvements to product offerings and the customer experience. While community banks continue to meet the needs of their customers in local communities, they understand that continued success is dependent upon the adaptation of banking practices to meet the evolving needs of the market. ICBA supports and encourages community banks as they innovate, both organically and through partnerships with other innovators.

Promoting Fintech Collaboration

To quickly and efficiently embrace new technology, community banks need to be able to collaborate with fintech firms. Collaboration can introduce new risks that require aggressive identification and mitigation. To manage and minimize these risks, community banks need to identify and collaborate with partners that are in a strong position to assist in prudent risk management in real time. Regulatory review should not be a barrier to innovating at the speed necessary to remain competitive and operate on a level playing field. ICBA urges federal financial regulators to respond to bank and fintech partner requests and provide timely feedback and assessments of proposed activity so that community banks may have more regulatory certainty when they undertake innovative endeavors.

Regulatory Environment and Innovation

ICBA strongly supports a regulatory environment, coupled with a supervisory process and operational environment that encourages innovation, promotes healthy and successful community banks, and reduces compliance burdens. ICBA welcomes the banking agencies' and the CFPB's decisions to establish innovation offices and believes these offices can play a meaningful role in understanding the interplay between community banks and fintechs.

Meeting Customers' Payments Needs

Community banks are committed to providing the payments services that best address consumer needs. These services include myriad traditional payments services—checking, direct deposit and direct debit, credit and debit cards, and wire transfers—as well as today’s constantly evolving digital payments. The legal and regulatory environments governing payments should not discourage community banks from offering various payments services.

Providing Universal Access to Faster Payments

Ubiquitous, nationwide access to safe and efficient faster payments for all financial institutions and their customers is crucial as the global marketplace transforms to a digital infrastructure. The ability to clear and settle faster payments on a transaction-by-transaction basis, 24 hours, seven days a week and 365 days per year, is vital. ICBA strongly urges the Federal Reserve to assist in achieving this access by serving three roles:

- » Operator of a real-time gross settlement service;
- » Operator of liquidity management tools, and
- » Operator of a payments directory switch or hub linking financial institutions to other payments directories.

These Federal Reserve roles would serve as a foundation for innovation—not just for payments today, but as payments evolve well into the future—and would fuel a competitively based marketplace for open-loop services.

Serving Remittance Transfer Needs

The CFPB's 2013 remittance transfer rule, designed to protect consumers who send money electronically to foreign countries, exempts community banks and others that send fewer than 100 transfers per year. This threshold is unreasonably low and forces community banks to manage volume to stay below it, resulting in fewer consumer options. Additionally, the rule contains other onerous compliance requirements that discourage community banks from offering the product. ICBA supports changes to Regulation E requirements covering remittance transfers to improve product availability and reduce unnecessary burden for customers and community banks.

Ensuring Access to Prepaid Accounts

Community banks are increasingly offering prepaid accounts to their customers. ICBA opposes using Regulation Z (Truth in Lending) protections to regulate overdraft services for prepaid accounts. Regulation Z is overly complex and is not the appropriate regulatory scheme for overdraft services, which are not normal extensions of credit. These potential disclosure requirements add redundancy, cost, and consumer confusion, and they would discourage community bank participation, thereby reducing consumer access to prepaid accounts.



Cybersecurity

The financial services industry and community banks are on the front lines defending against cybersecurity threats, and they take their role in securing data and personal information very seriously. As a result of growing cyber threats and intrusions, the financial services industry and policymakers are increasingly focused on strengthening cybersecurity.

Managing Cybersecurity Risk Assessment Tools

Policymakers should recognize existing cybersecurity frameworks, tools, and assessments—such as the Federal Financial Institutions Examination Council Cybersecurity Assessment Tool and the National Institute of Standards and Technology Cybersecurity Framework—to ensure community banks are not burdened with the obligation to reassess their critical systems against yet another standard which would yield the same results. Regulators should not mandate the use of any one framework, tool, or assessment, but rather support community banks' ability to use the framework, tool, or assessment that best suits their institution's size, risk, and complexity.

Overseeing Third-Party Risk

Bank regulators should evaluate the concentration risks of service providers to financial institutions and broaden supervision of technology service providers to include additional core, IT service providers. Because employees of technology service providers have access to confidential bank information that could be used to commit fraud, damage a bank's reputation, or compromise customer privacy, regulators must ensure that these service providers implement nondisclosure and confidentiality requirements that are similar to existing regulatory requirements for banks.



1615 L Street, NW, Suite 900
Washington, DC 20036

www.icba.org