COMMUNITY FOCUS 2020:

The Community Bank Agenda for Expanding Economic Opportunity

2020 Legislative and Regulatory Agenda

ICBA
Independent Community Bankers of America®

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Community Focus 2020:

The Community Bank Agenda for Expanding Economic Opportunity

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.

Regulatory Relief

Overregulation continues to encumber community bank lending, which plays a critical role in spreading the economic recovery to regions that have not yet experienced strong growth. Excessive regulation of community banks drives industry consolidation that will directly harm consumers and small businesses. Regulation should be tiered to the size, complexity and interconnectedness of the institution. Not all institutions present the same risk to consumers or to the financial system, and one size does not fit all. ICBA supports intelligent, risk-based regulation focused on the too-big-to-fail and too-big-to-manage institutions that have repeatedly abused consumers and whose failure would disrupt the financial system. Community bank regulatory relief will better promote the flow of credit and economic opportunity for all individuals and families.

Modernizing the Bank Secrecy Act

ICBA recommends raising the currency transaction report (CTR) threshold from $10,000 to $30,000 and indexing future increases on an annual basis. The current threshold, set in 1970, is significantly outdated and captures far more transactions than originally intended. A higher threshold would produce more targeted, useful information for law enforcement. ICBA also supports the creation of a tax credit to offset the cost of Bank Security Act (BSA) compliance. See Community Bank Tax Relief for more information.

Banking Services for Legal Cannabis-Related Businesses

As more states legalize cannabis for medical and/or recreational use, it is critically important as a matter of public safety that cannabis-related businesses, as well as those businesses that serve them, have access to the traditional banking system. ICBA supports legislation that would create a safe harbor from federal sanctions for financial institutions that serve cannabis-related businesses in states where cannabis is legal.

Strengthening Accountability in Bank Exams: A Workable Appeals Process

An independent body should be created to receive, investigate, and resolve material exam complaints from banks in a timely and confidential manner. This would create much-needed checks and balances in the current system, which grants examiners almost unfettered and unassailable authority. A workable appeals process would hold examiners accountable and prevent retribution against banks that file complaints.

Relief from Internal Control Mandates

An exemption from Securities and Exchange Commision (SEC)-mandated internal control audit requirements should be created for publicly traded banks with a market capitalization of $350 million or less. This should be paired with an equivalent exemption from FDIC-mandated internal control audit (Part 363) for banks with assets of less than $5 billion. Under current law, any company with market capitalization of $75 million or less is exempt from the SEC mandate, and any bank with assets of less than $1 billion is exempt from the FDIC mandate. Because community bank internal control systems are monitored continually by bank examiners, they should not have to sustain the unnecessary annual expense of paying an outside audit firm. This provision would substantially lower unnecessary accounting costs for small banks without creating more risk for investors or the Deposit Insurance Fund. It would allow these banks to redirect resources toward community lending.

Facilitate New Capital Investment Through Private Offerings

SEC Regulation D should be reformed so that anyone with a net worth of more than $1 million, including the value of their primary residence, would qualify as an “accredited investor.” The number of non-accredited investors that could purchase stock under a private offering should be increased from 35 to 70.

Customer Due Diligence Rule

FinCEN’s Customer Due Diligence Rule requires banks to collect information on the beneficial owners of legal entities that open accounts. The purpose of the rule is to create more transparency and thereby deter the abuse of anonymous legal entities for money laundering, corruption, fraud, terrorist financing and sanctions evasion. ICBA recommends that beneficial ownership information be collected and verified by either the Internal Revenue Service or other appropriate federal or state agency at the time a legal entity is formed. This solution would provide uniformity and consistency across the United States. Making the formation of an entity contingent on receiving beneficial owner information would create a strong incentive for equity owners and investors to provide such information.

A Competitive Landscape for a Dynamic Economy

ICBA recognizes the evolving nature of the American financial services marketplace. Community banks embrace innovation in financial technology, which offers the promise of reaching more consumers and expanding products and services. As Congress continues to review and reform the legal and regulatory framework of financial services, we urge them to ensure that the framework promotes, rather than hinders, critical innovation. Any review of the competitive landscape should promote a level playing field between current providers of financial services, such as community banks, and new entrants in the marketplace. The competitive advantages enjoyed by tax-exempt credit unions and Farm Credit System lenders warrant special scrutiny.

Curb or Eliminate Tax Subsidies for Rapid-Growth, Bank-Like Credit Unions

Tax-exempt credit unions have become virtually indistinguishable from tax-paying commercial banks. Today's credit unions are leveraging their tax subsidy for rapid growth, purchasing multi-million-dollar stadium naming rights, flaunting their nearly unlimited fields of membership, and expanding their activities well beyond their original mission. The largest credit union is approaching $100 billion in assets. Many credit unions are aggressively pushing into commercial lending. Others are trying to get into wealth management. ICBA urges Congress to restore balance to the American financial services marketplace and help close the growing budget deficit by re-examining the outmoded credit union tax subsidy.

Farm Credit System Crowding Out Rural Community Bank Lending

Farm Credit System (FCS) lenders enjoy unfair advantages over rural community banks and leverage their tax and funding advantages as government-sponsored enterprises (GSEs) to siphon the best loans away from community banks. The FCS is the only GSE that competes directly against private-sector lenders at the retail level. FCS was chartered by Congress to serve bona fide farmers and ranchers and a narrow group of farm-related businesses. In recent years FCS has sought non-farm lending powers in an effort to compete directly with commercial banks for non-farm customers.

ILC Loophole Promotes Corporate Consolidation and Threatens the Federal Safety Net

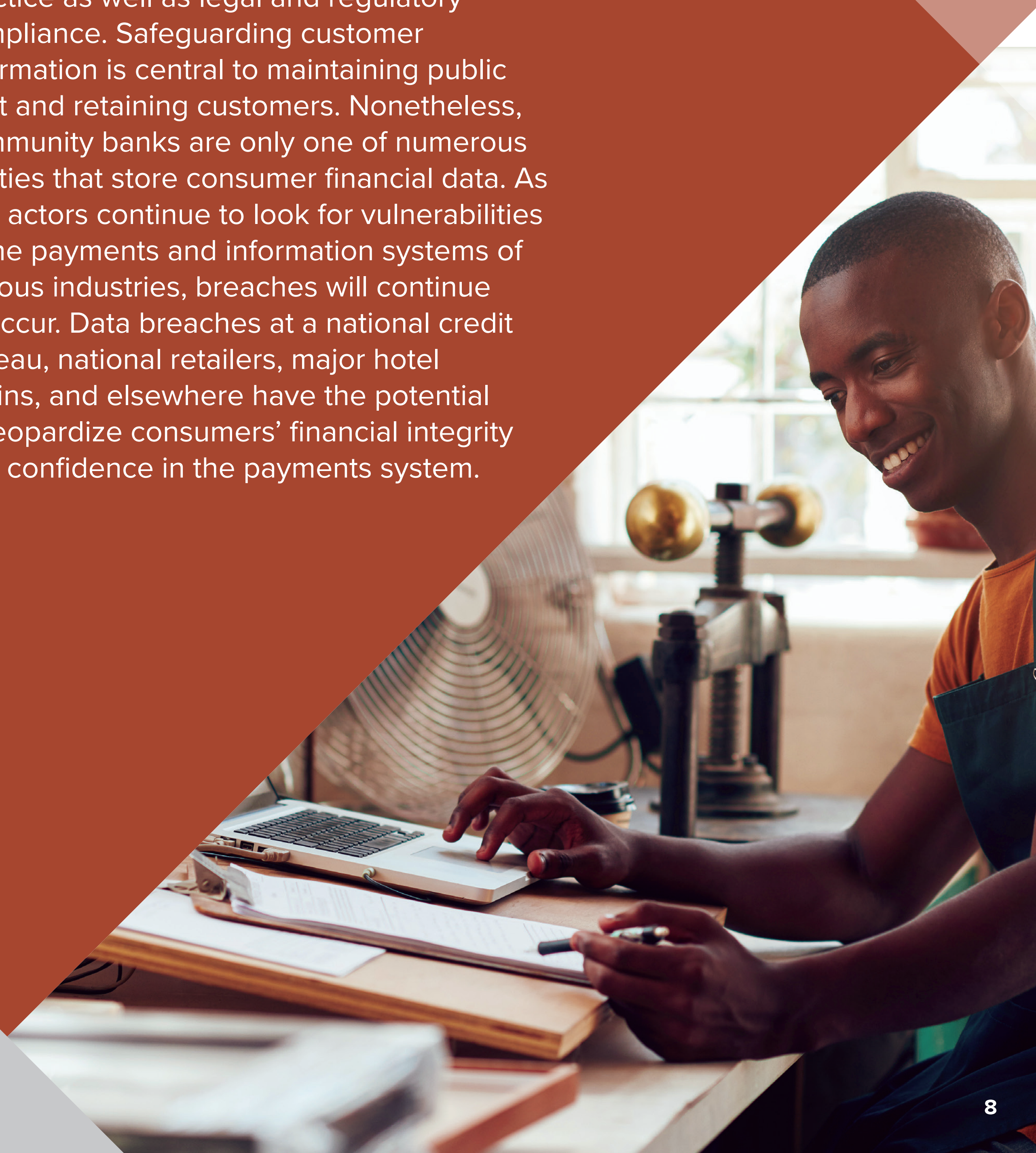
A loophole in the Bank Holding Company Act allows commercial companies and fintech companies to own or acquire industrial loan companies (ILCs) without being subject to federal consolidated supervision. ILCs are the functional equivalent of full-service banks. Commercial company ownership of ILCs will effectively combine banking and commerce, contrary to long-standing American economic policy. In the new era of dominant Big Data, social media and e-commerce conglomerates, artificial intelligence, and financial technology, we should be cautious before giving these companies yet more reach into the economic lives of Americans. Any such far-reaching change should be debated by Congress. ICBA supports statutory closure of the ILC loophole.

No Regulatory Subsidy for Fintech

Congress should ensure that online marketplace lenders or other fintech companies are not given an unfair regulatory advantage over depository institutions such as community banks. In particular, the Office of the Comptroller of the Currency should not issue a special-purpose charter for fintech companies without explicit statutory authority from Congress. Any new federal charter should be subject to the same standards of safety, soundness, and fairness as other federally chartered institutions.

Data Security, Fraud and Privacy

Community banks are committed guardians of the security and confidentiality of customer information as a matter of good business practice as well as legal and regulatory compliance. Safeguarding customer information is central to maintaining public trust and retaining customers. Nonetheless, community banks are only one of numerous entities that store consumer financial data. As bad actors continue to look for vulnerabilities in the payments and information systems of various industries, breaches will continue to occur. Data breaches at a national credit bureau, national retailers, major hotel chains, and elsewhere have the potential to jeopardize consumers' financial integrity and confidence in the payments system.



Strengthen Weakest Links

All participants in the payments and financial systems, including merchants, aggregators and other entities with access to customer financial information, should be subject to Gramm-Leach-Bliley Act-like data security standards.

Uniform Breach Notification Will Mitigate Losses

ICBA supports a national data security breach and notification standard to replace the current patchwork of state laws. Community banks should be notified of a potential or actual breach as expeditiously as possible in order to mitigate losses.

Align Incentives to Better Secure Data

The costs of data breaches should ultimately be borne by the party that incurs the breach. This is not only a matter of fairness; a liability shift is needed to properly align incentives for entities that store consumer financial and personally identifiable data to strengthen their data security. When breaches have a material impact on entities' bottom lines, they will quickly become more effective at avoiding them. Barring a shift in liability to the breached entity, community banks should continue to be able to access various cost-recovery options after a breach, including account-recovery programs and litigation.

Privacy

Any privacy legislation considered by the Congress must recognize the existing requirements community banks undertake to protect customer information and privacy.

Preserve Liquidity for Robust Community Bank Mortgage Lending

For decades, American homeowners have benefited from the critical role Fannie Mae and Freddie Mac (the government-sponsored enterprises, or GSEs) play in helping finance homeownership. The GSEs have provided a steady, reliable source of funding for home mortgage lending through all economic cycles and in all markets. GSE securities trade with the same ease as U.S. Treasury debt. The GSEs operate as friendly aggregators and a source of capital for mortgage-lending institutions of all sizes and charters.

Community banks depend on the GSEs for direct access to the secondary market without having to sell their loans through a larger financial institution that competes with them. Unlike other private investors or aggregators, the GSEs have a mandate to serve all markets at all times.

ICBA Supports Reform

ICBA supports housing finance reform to preserve market liquidity, protect taxpayers, encourage the return of private capital, and ensure a stable national mortgage market for all stakeholders.

Earnings Sweeps Jeopardize GSE Capital

The Federal Housing Finance Agency (FHFA) must take steps to end the destructive sweep of GSE earnings that will bleed all capital from the GSEs to the Treasury, result in another taxpayer bailout, and possibly cause disruption in the housing market.

Preserve Community Bank Access

Housing finance reform must provide robust and equitable secondary market access for lenders of all sizes, no competition from GSE successors at the retail level, and retention of mortgage-servicing rights on transferred loans. The GSE secondary market structure must not be turned over to the largest national lenders and Wall Street institutions.

30-Year Fixed-Rate Mortgage a Staple of American Homeownership

ICBA is committed to preserving the 30-year fixed-rate mortgage for creditworthy customers in all markets.

A Long-Term, Financially Responsible National Flood Insurance Program Will Promote Mortgage Lending and Homeownership

Congress created the National Flood Insurance Program in 1968 to help property owners protect themselves financially from the risk of flooding at a time when flood insurance was not readily available in the private market. Long-term authorization of the NFIP will stabilize the program and prevent disruptions in the mortgage market. Congress needs to strike a delicate balance between setting the program on sound financial footing and making sure that rates are affordable for the homeowners and businesses who depend on flood insurance coverage. ICBA is supportive of increased private market participation as long as certain conditions are met that would protect both consumers and lenders.

Community Bank Tax Relief

ICBA continues to promote tax and budget policies that foster economic growth and support the community banking sector by providing direct tax relief and encouraging private savings and small business investment. A fair and unbiased tax code will enhance the viability of community banks and the vital role they serve in the U.S. economy as a critical source of lending for consumers, small businesses and farms.

Preserve Competitive Corporate Rate

ICBA strongly supports the new corporate tax rate of 21 percent created by the Tax Cuts and Jobs Act, which benefits community banks and many of the businesses they serve. It is critical that the United States maintain a tax rate that is competitive with other industrialized economies. Over time, the new tax rate will strengthen corporate investment and create a more productive workforce. ICBA will oppose any efforts to increase the corporate tax rate.

Make Permanent the New Deduction for Pass-Through Shareholders and All Individual Rate Reductions

ICBA will press for extension of the individual provisions of the Tax Cuts and Jobs Act, including the 20 percent pass-through deduction for shareholders of Subchapter S banks and Alternative Minimum Tax and estate tax relief, well before they are scheduled to expire at year-end 2025. The pass-through deduction helps create rough parity between the taxation of C corporation and S corporation banks.

Incentivizing Credit for Low- and Middle-Income Customers and American Agriculture

ICBA supports the creation of new tax credits or deductions for community bank lending to low- and moderate-income individuals, businesses, and farmers and ranchers. Such tax credits or deductions would help to sustain and strengthen lending to these borrowers and would help to offset the competitive advantage enjoyed by tax-exempt credit unions and Farm Credit System lenders.

Modernize Subchapter S Constraints

Subchapter S of the tax code should be updated to facilitate capital formation for community banks. Congress should: increase the limit on Subchapter S shareholders from 100 to 200; allow Subchapter S corporations to issue preferred shares; and permit the holding of Subchapter S shares, both common and preferred, in individual retirement accounts (IRAs). These changes would improve the ability of the nation's 1,900 Subchapter S banks to raise capital and increase the flow of credit.

Estate Tax Repeal

ICBA supports full, permanent repeal of the estate tax, which jeopardizes the succession of many community banks from generation to generation. A family estate should never be forced to sell its interest in a community bank to pay a transfer tax. Forced sales of once-family-owned community banks, coupled with regulatory burden, accelerate the current trend toward consolidation in the banking sector.

Tax Credit for Bank Secrecy Act Compliance Costs

For community banks, BSA compliance represents a significant expense in terms of both direct and indirect costs. BSA compliance, whatever the benefit to society at large, is a purely governmental, law-enforcement function with no direct benefit to the bank or its customers. As such, the costs should be borne by the government. ICBA supports the creation of a tax credit to offset the cost of BSA compliance.

Industry Concentration and Systemic Risk

The continued growth and dominance of a small number of too-big-to-fail banks has led to a dangerously concentrated financial system, created unacceptable moral hazard and systemic risk, thwarted the operation of the free market, and harmed consumers and business borrowers. ICBA supports legislative and regulatory changes that would curb or end advantages currently enjoyed by too-big-to-fail banks.

Enhanced Prudential Standards for the Largest Banks

ICBA endorses higher capital, leverage, and liquidity standards; concentration limits; and contingent resolution plans for systemically important financial institutions. ICBA supported the requirement for a higher supplementary leverage ratio on the largest banks and their holding companies adopted by bank regulators. ICBA supports a significant capital surcharge on SIFIs and the imposition of total loss-absorbing capacity and long-term debt requirements on globally significant banks.

National Deposit Cap Must Be Strengthened

Current law prohibits bank mergers or acquisitions that would result in a single bank holding more than 10 percent of all U.S. deposits. ICBA supports a “hard” 10 percent deposit cap that would apply whether deposit growth was organic or a result of mergers or acquisitions. A hard deposit cap would help to curb further industry concentration.

Agriculture and Rural America

A vibrant rural economy is critical to America's prosperity. Community banks, funding nearly 80 percent of all agricultural loans from the commercial bank sector, serve a critical role in creating and sustaining rural economic prosperity. The following provisions will help rural America by strengthening community banks.

Crop Insurance and Lending Limits

Farm loan balances that are protected by federal crop and revenue insurance should be exempt from banks' lending limits.

Agricultural Loan Concentration Limits

Federal banking regulators should not impose concentration limits on community bank agricultural loans that would needlessly curtail lending relationships. Many banks in rural areas do not have economic choices beyond agriculture, and arbitrary concentration limits could dramatically increase their risk by forcing them into new lending markets.

Tax Relief for Rural Lending

ICBA supports the creation of tax incentives to support agricultural and residential mortgage lending in rural areas. Congress should consider the creation of new tax credits or deductions for community bank lending to farmers and ranchers. Such incentives should include an exemption for interest income on mortgage loans equivalent to the exemption provided to the Farm Credit System. There should be parity among all lenders that serve rural areas regardless of legal entity type. This will allow community banks to maximize credit and services to farmers, ranchers, and residents of remote rural areas while helping to offset the competitive advantage enjoyed by tax-exempt credit unions and Farm Credit System lenders.

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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 Institutins

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 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.

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