CURRENT TOP ISSUES

Plan for Prosperity for the 115th Congress. ICBA's Plan for Prosperity ("Plan") is a legislative agenda for the 115th Congress. A copy of the Plan is available on ICBA's website. Provisions of the Plan are reflected in numerous bills that have progressed in the House and Senate. Notably, the Senate passed the Economic Growth, Regulatory Relief and Consumer Protection Act (S. 2155) in March 2018 on a broad bipartisan vote of 67-31. Senate action on S. 2155 was prompted by the House's years-long effort to enact community bank regulatory relief. S. 2155 incorporates numerous bills that originated in the House. In addition to relief for smaller community banks, S. 2155 includes provisions specifically designed for larger community banks with assets from $10 billion to $50 billion. ICBA is pressing the House to immediately pass community bank regulatory relief that can be sent to the President.

Home Mortgage Disclosure Act (HMDA). ICBA supports repeal of the Dodd-Frank authority for expanded HMDA reporting. The October 2015 HMDA rule increases the number of unique data points to be reported on mortgage loan applications from 23 to 48. Collection of the new data points began on January 1, 2018, with reporting of that data beginning in 2019. S. 2155 (see above) would exempt lenders that make fewer than 500 mortgages annually from expanded HMDA reporting.

Industrial Loan Companies. ICBA is urging the FDIC to impose a two-year moratorium on approving deposit insurance applications for industrial loan corporations (ILCs) to allow Congress to determine whether it wants to maintain the separation of commerce and banking by closing the ILC loophole permanently. SoFi Bank withdrew its application to the FDIC for deposit insurance for a new ILC. Square is pursuing deposit insurance for its ILC.

Credit Unions. ICBA opposes a National Credit Union Administration (NCUA) final rule that illegally broadens credit unions' field of membership and is participating as an amicus party in ABA's suit challenging the final rule. ICBA is opposing NCUA's proposal to allow credit unions to raise alternative capital. ICBA will continue its efforts to block legislation that would expand credit union powers in any form. ICBA is urging Congress to end credit unions' unfair tax and regulatory advantages and to prevent NCUA from erecting roadblocks that keep credit unions from converting to tax-paying banks.

Cybersecurity. ICBA will continue to ensure that any new frameworks, tools or assessments intended to enhance cybersecurity remain voluntary and recognize the standards and practices community banks currently use to protect the confidentiality and integrity of personal data. Institutions must continue to be able to choose the framework, tools, and assessments that match their size and complexity. In addition, ICBA urges policymakers to recognize community banks' reliance on third-party service providers and work collaboratively with them to ensure community banks are protected. ICBA is promoting the use of the .BANK web domain and Sheltered Harbor to further protect consumer account information.

Equifax Suit. In response to their 2017 data breach, ICBA filed a lawsuit against Equifax, asking the U.S. District Court for the Northern District of Georgia to require the credit bureau to compensate all community banks harmed by the breach and to improve its security to avoid additional harm to the consumers and local communities that community banks serve. The lawsuit seeks monetary relief for all community banks affected by the breach for such costs as: protection measures to deter customer identity theft, deposit and loan account fraud, customer notification, covering fraudulent transactions, payment card cancellation and replacement, and other expenses.

The Next Farm Bill, Crop Insurance, and Farm Credit System Lenders. ICBA supports adoption of a robust farm bill to provide a strong safety net for farmers and ranchers. The farm bill must include adequate price-protection programs and enhanced USDA-guaranteed farm and business loan programs. ICBA supports crop insurance as a successful public-private program that is critical to the prosperity of rural

America. ICBA is working to protect the program from further cuts or adverse changes that would discourage farmer and rancher participation or undermine private sector delivery. ICBA continues working to significantly reform FCS institutions to keep them from becoming the equivalent of commercial banks but with credit union-like tax exemptions and the inherent advantages of government sponsored enterprise status.

Data Security. ICBA calls on Congress to pass legislation that would apply federal data security standards and notice requirements to all entities that store consumer data, comparable to the Gramm-Leach-Bliley Act standards that already apply to financial institutions. ICBA also supports shifting liability for costs associated with a data breach – including the cost of card reissuance – to the party that experienced the breach. ICBA also supports additional examination and supervision of third parties, including the credit rating agencies, that hold personally identifiable information and serve community banks.

Tax Relief. The Tax Cuts and Jobs Act, signed into law in December 2017, provides significant tax relief for both C corporation and S corporation community banks. ICBA is engaged with Treasury to ensure that its rule implementing the new deduction for S corporation community bank income reflects the intent of Congress. ICBA will press for extension of the individual provisions, including the pass-through deduction and AMT and estate tax relief, well before they are scheduled to expire at year-end 2025.

Future of Housing Finance. ICBA is working to preserve a secondary market for residential mortgages that is financially strong, reliable and impartial – providing equitable access and pricing to all lenders regardless of size or volume. ICBA has prepared a white paper (available on our website), "ICBA Principles for GSE Reform." ICBA has urged the FHFA to direct Fannie Mae and Freddie Mac to rebuild capital to support their operations and reduce the risks they pose to the economy, housing market and U.S. taxpayers. ICBA opposes reform proposals that would only benefit the largest lenders and Wall Street players, leading to further consolidation of the mortgage industry in the hands of the too-big-to-fail banks.

Responsible Innovation (Fintechs). ICBA is assessing the future of financial technology firms (fintechs) and the opportunities these firms may offer community banks for reaching more customers and expanding products and services. At the same time, ICBA advocates for a level playing field with these firms. In particular, ICBA believes the Office of the Comptroller of the Currency should not issue special purpose national bank charters to fintech companies without explicit statutory authority and implementing regulations. Any special purpose federal charter should be subject to the same standards of safety, soundness and fairness as other federal charters.

Beneficial Ownership Rule. Treasury's beneficial ownership rule becomes effective in May 2018. The rule will require banks to collect information on the beneficial owners of legal entity accounts. ICBA supports measures that would require beneficial ownership information to be collected and verified at the time a legal entity is formed by a federal or state agency.

Faster Payments. ICBA remains committed to faster, more efficient and ubiquitous bank-centric payments. ICBA continues to actively participate in the Federal Reserve Banks' payment system improvement initiatives, including the Faster Payments and Secure Payments Task Forces. ICBA strongly advocates for real-time payments and supports an operational role for the Federal Reserve as an enabler of ubiquity.

Community Bank Access to Capital. ICBA is advocating for a package of legislative changes to strengthen community bank viability by creating new options for capital raising and capital preservation. Provisions include an exemption from Basel III for community banks; raising the eligibility threshold of the Federal Reserve Small Bank Holding Company Policy Statement from $1 billion to $10 billion; and relief from SEC rules regarding SOX 404(b) and Regulation D. ICBA supports agency proposals to pause the Basel III transition treatment for mortgage-servicing rights, certain deferred tax assets and certain investments in other banks and to raise the threshold deduction for these assets from 10 percent of common equity tier 1 capital to 25 percent. ICBA is concerned about the agencies' proposal to change the definition of a high volatility commercial real estate (HVCRE) loan to a simpler but more inclusive high volatility acquisition, development, and construction (HVADC) loan with a lower risk weight of 130 percent rather than 150 percent.

Community Reinvestment Act (CRA). As regulators review ways to update CRA regulations, ICBA continues to recommend that regulators resolve CRA examination inconsistencies, improve transparency in the exam process, update geographic assessment areas, and harmonize safety-and-soundness exams with CRA exams. ICBA also supports an increase in the asset thresholds that determine the type and frequency of CRA assessments.

Tax Relief for Community Bank Lending. ICBA is promoting legislation which would create tax relief for community bank lending. The Access to Business Credit Act (H.R. 4424) would provide tax free treatment of income received on small business and farm loans of less than $5 million. The Enhancing Credit Opportunities in Rural America Act (H.R. 2205) would provide for tax free treatment of income from loans secured by agricultural real estate or by single family homes in communities with a population of less than 2,500 that are the principal residence of the borrower.

Current Expected Credit Loss Model. Following a multi-year advocacy campaign, ICBA won significant changes in the Financial Accounting Standards Board's final accounting standard on credit losses. In particular, community banks will not be required to use complex cash flow modeling to determine loan reserves. ICBA will follow through on this important victory by ensuring that regulators and auditors charged with implementing CECL do so in a manner that is flexible and scalable for community banks.

Flood Insurance. The National Flood Insurance Program (NFIP) is currently under a short-term authorization which expires July 31. ICBA is engaged in the debate over reform of the program and will evaluate proposals to increase the role of private insurers based on their effect on premium affordability and other criteria.

Small Business Lending Data Collection. ICBA is seeking repeal of the CFPB's statutory authority to require lenders to collect and report data on all small business loan applications. ICBA submitted a comment letter to and met with the CFPB urging the agency to exempt community banks from its forthcoming rule.

Call Report Burden. ICBA continues to call on Congress to provide relief from the excessive burden of quarterly call reports, which have grown significantly in length and complexity. The Federal Financial Institutions Examination Council finalized a rule that will reduce call report data collection. Among the changes, community banks will report on loans to small businesses and small farms (Schedule RC-C, Part II) on a semi-annual rather than a quarterly basis. ICBA supports a short-form call report for highly rated, well-capitalized banks to be filed in the first and third quarters of each year. The full report would be filed at mid-year and year-end.

Mortgage Lending Regulatory Relief: *TILA/RESPA Integrated Disclosures (TRID).* ICBA continues to monitor feedback from community bankers regarding TRID implementation issues and exam findings. Recent amendments to the TRID rule and commentary are a welcome development. However, ICBA is encouraging the CFPB to prevent delayed closings and frustrated borrowers by continuing to work closely with community banks and other industry participants to address critical compliance questions through written guidance and FAQs. ICBA is also urging regulators to continue taking a diagnostic and corrective approach regarding good-faith compliance efforts during the amendment process.

Qualified Mortgage (QM)/Escrow Requirement. ICBA's Plan for Prosperity calls for a legislative change that would grant QM safe harbor status and an exemption from escrow requirements for all community bank mortgages held in portfolio, without regard to rural or non-rural status.

Mortgage Servicing. The CFPB's final servicing rule, released in January 2013, exempts servicers that service 5,000 or fewer loans from some, but not all, new requirements. ICBA advocates legislation that would increase the statutory exemption threshold to 30,000 loans serviced or $5 billion in unpaid principal balance on loans serviced.

Consumer Financial Protection Bureau. ICBA is working to protect the interests of community banks before the CFPB. We are advocating governance reforms to change the structure of the CFPB to a five-member commission and give bank regulators meaningful input into CFPB rules. ICBA also supports raising the threshold for banks subject to direct examination and supervision by the CFPB from $10 billion to $50 billion in assets. ICBA will continue to push for greater scrutiny over non-bank financial firms. ICBA is urging the CFPB whenever possible to adopt tiered regulations and appropriate exemptions for community banks.

Fair Lending Issues. ICBA is working to protect community bankers from frivolous lawsuits and the misapplication of fair lending laws by a number of different agencies, including the U.S. Department of Justice. ICBA is also urging bank examiners not to use statistical screening alone, which has caused banks to defend themselves against "false positive" fair lending violations.

FDIC National Rate Caps on Deposits. ICBA is urging the FDIC to reconsider the methodology used to calculate the interest rate restrictions applicable to less-than-well-capitalized institutions. The current methodology understates prevailing rates, thereby unduly hampering affected banks. For example, credit union deposit rates should be included as well as premiums and promotional rates and non-standard certificates of deposits. Interest rates paid by large banks should not be overrepresented in the calculation.

Bank Exams. ICBA continues to warn regulators that overly conservative safety and soundness and compliance exams adversely impact community bank lending and support for economic growth. ICBA continues to advocate for a more flexible supervisory approach to community banks. ICBA's Plan for Prosperity calls for the creation of an independent appeals process outside of the banking agencies. ICBA also supports a two-year exam cycle for well rated banks with assets of $2 billion or less.

Accounting and Auditing. In addition to our work on FASB's current expected credit loss model, ICBA opposes FASB proposals to restrict the ability of community banks to classify mortgage loans and investment securities at amortized cost and to require extensive liquidity risk and interest rate risk disclosures in the footnotes to audited financial statements. ICBA also opposes requirements that public companies use specific auditors or use different auditors on a rotating basis.

Mutual Institutions. ICBA continues to support the option of mutual ownership before all regulatory and legislative bodies. ICBA supports the OCC's proposal for a new charter for mutual national banks. ICBA also supports the authorization of mutual banks to issue Mutual Capital Certificates (MCCs) that would qualify as Tier 1 common equity capital.

Anti-Money Laundering and Counter Terrorism Financing. ICBA fully supports the fight against terrorist financing and money laundering activities and is committed to supporting effective measures that will prohibit offenders from using financial products. Those efforts should be properly balanced against the increasing regulatory burdens placed on banks as well as the privacy rights of individual customers.

Overtime Pay. A federal judge struck down the Obama Department of Labor's new rule to expand the number of employees subject to overtime pay. As the Trump administration works to rewrite the overtime rule, ICBA is calling for restoration of the 2004 overtime standards.

Industry Concentration. ICBA supports proposals designed to end the concentration of assets in our financial system and the harm it entails for consumers.

Small Dollar Loan Rule. In January 2018, the CFPB announced that it will reopen its recently finalized rule on payday, vehicle title, and certain high-cost installment loans. ICBA urges the CFPB to retain and improve the current exemption for community bank lending.

State-Owned or Public "Partnership" Banks. ICBA opposes the establishment of state-owned or public "partnership" banks. Such banks would directly compete with community banks and divert deposits from local communities. Public banks are not needed in a highly competitive financial environment. Moreover, they are fraught with risk for taxpayers and liable to capture by partisan political agendas.

Patent Abuse. ICBA supports legislation that would curb abusive patent infringement claims against community banks.

Claims Under the Americans with Disabilities Act. ICBA is committed to further raising community bank awareness and to providing resources to assist community banks in responding to demand letters sent by plaintiff law firms alleging violations of the Americans with Disabilities Act (ADA) accessibility requirements for electronic banking services.

Minority Banks. The ICBA Minority Bank Council was formed to recognize the unique characteristics of minority banks and to pursue policies in support of minority bank growth and preservation.

Fintech Disruptors: ICBA continues to track the development of non-bank financial services that use technology to disrupt banks, such as mobile wallets, virtual currencies, and distributed ledger (blockchain) technologies. Additionally, ICBA educates regulators and other interested parties regarding the risks related to these services.

Payments Card Security. ICBA supports industry initiatives aimed at improving security for credit, debit, and prepaid cards, including EMV/chip, tokenization of card numbers, and point-to-point encryption.

Transitioning from LIBOR. ICBA is representing community banks on the new reconstituted Alternative Reference Rates Committee (ARRC), an industry-wide, private-sector organization convened by the Federal Reserve to ensure a successful transition from U.S. dollar LIBOR to alternative reference rates.

De Novo Community Bank Formation. ICBA supports a more 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, not a one-size-fits-all policy that inhibits de novo bank formation.