

Implementation of the Economic Growth, Regulatory Relief, and Consumer Protection Act: The Community Bank Perspective

On behalf of the nearly 5,700 community banks represented by ICBA, we thank Chairman Crapo, Ranking Member Brown, and members of the Senate Banking Committee for convening today's hearing on "Implementation of the Economic Growth, Regulatory Relief, and Consumer Protection Act." ICBA is pleased to have the opportunity to submit this statement for the hearing record.

Since enactment of the Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155), the banking agencies represented at today's hearing have acted expeditiously in the issuance of key rules and guidance. (See attached ICBA matrix: "Implementation of S. 2155.") Six provisions of the new law are in effect today with accompanying rules or guidance. An additional four provisions are also in effect, though community bankers await guidance to clarify ambiguities in the statute. These important provisions are being used by community banks today and making a positive impact in local communities as Congress intended. ICBA thanks the agencies for their efforts to date.

The agencies continue their work on four community bank provisions which are not yet in effect. Of these, two in particular are eagerly awaited by community bankers.

Simplified Capital Rules

Once Section 201 of S. 2155 is implemented by the regulators, banks with assets of less than \$10 billion that exceed the "community bank leverage ratio" will be considered "well capitalized" and effectively exempt from all risk-based capital requirements, including Basel III and its predecessors. For banks that qualify, most of Schedule RC-R – Regulatory Capital, of the call report will not apply. In addition, the punitive risk-based capital rules on high volatility commercial real estate lending (HVCRE), mortgage servicing rights, deferred tax assets, and trust preferred securities (TruPS) investments, will not apply to qualifying banks. Relief from international capital standards will allow qualifying banks to deploy more credit in their communities and promote local economic growth. ICBA has always believed that community banks should never have been subject to Basel III, and S. 2155 will provide highly capitalized community banks the opportunity to be exempted from those complex and onerous capital requirements.

For this provision to be effective, the banking agencies must establish the "community bank leverage ratio" (a ratio of tangible equity to average consolidated assets) between 8 percent and 10 percent. ICBA urges the agencies to establish an 8 percent leverage ratio since the regulators will likely insist that community banks hold a higher amount than the minimum to avoid inadvertently dropping below that level.

Furthermore, a majority of community banks would qualify if the community bank leverage ratio was 8 percent, allowing most community banks to take advantage of the simpler capital standard, thereby better fulfilling congressional intent. We urge the bank regulators to promptly provide needed rules and guidance on S. 2155's

simplified capital rules. In particular, there should be a transition period if a bank drops below the community bank leverage ratio so that it does not suddenly and unexpectedly become subject to Basel III and risk-based capital standards.

Short Form Call Reports

Section 205 of S. 2155 requires the agencies to create a short form call report for banks with assets of less than \$5 billion to be filed in the first and third quarters of each year. The agencies will continue to receive all of the data currently reported by community banks twice a year, in the second and fourth quarters.

Short form call reports will allow community banks to make better use of costly analytical and administrative resources to serve customers instead of providing granular and unnecessary data to their regulators. Banks that qualify for the short form call report pose no risk to the domestic or global financial system.

Community banks nationwide continue to be extremely frustrated by the regulators' inaction in implementing streamlined call reports. With S. 2155, Congress has put into statute a very clear mandate with respect to these call reports. Community banks cannot take advantage of this provision until the agencies issue regulations. ICBA strongly urges the agencies to honor the intent of Congress by creating a *true* short form call report for community banks that only requires the balance sheet, income statement, and statement of changes in shareholders' equity for the March 31st and September 30th call dates, with more detailed accompanying schedules to be completed for the June 30th and December 31st reporting dates.

As the agencies are aware, ICBA has been at the forefront in advocating for call report relief for community banks for many years. ICBA has continually worked to help the banking regulators better understand the difficulties facing community banks in providing the vast array of data reporting requirements that are reported to the agencies on a quarterly basis but are unnecessary to adequately monitor safety and soundness, especially considering the full array of information will be reported twice a year.

In 2014, nearly 15,000 community bankers nationwide submitted a petition to prudential banking regulators calling for short form call reports. ICBA strongly urges the agencies to create meaningful call report relief without further delay so that the benefits can be felt in the communities these institutions serve.

Closing

ICBA has been pleased with the provisions of S. 2155 that have been implemented to date. We look forward to working with Congress and the bank regulatory agencies to ensure all the remaining provisions of S. 2155 are implemented promptly and as intended by Congress.

Thank you for your consideration.



IMPLEMENTATION OF S. 2155

THE ECONOMIC GROWTH, REGULATORY RELIEF, AND CONSUMER PROTECTION ACT

Section/Subject	Summary	Agency	Status
Sec. 101 – Minimum Standards for Residential Mortgage Loans	Certain mortgage loans originated and retained in portfolio deemed to be qualified mortgages.	BCFP	In effect (<i>but awaiting guidance</i>). Analysis indicates that banks can take advantage of the provision immediately, yet there are several ambiguities and details that ICBA expects the bureau to address in a forthcoming regulation. ICBA has met with bureau staff to discuss specific facts of the act. ICBA has also submitted comments, urging the bureau to promulgate a regulation soon.
Sec. 103 – Exemption from Appraisals of Real Property Located in Rural Areas	Exemption for rural mortgage portfolio loans of less than \$400,000 if unable to find a state-certified/licensed appraiser to perform the appraisal in a timely manner.	FDIC, OCC, Fed	In effect (<i>but awaiting guidance</i>). The agencies are reviewing the statutory provisions to determine whether further action is necessary.
Sec. 104 – Home Mortgage Disclosure Act Adjustment and Study	Exemptions from collecting the new Dodd-Frank Act data fields for banks with “satisfactory” CRA ratings that originate fewer than 500 closed-end mortgage loans or fewer than 500 open-end lines of credit.	BCFP	In effect. The interpretive and procedural rule is available here . At a later date, the bureau anticipates that it will initiate a notice-and-comment rulemaking to incorporate these interpretations and procedures into Regulation C and further implement S. 2155.

Section/Subject	Summary	Agency	Status
Sec. 108 – Escrow Requirements Relating to Certain Consumer Credit Transactions	Exemption from TILA escrow requirement for banks that make 1,000 or fewer first lien mortgages on principal dwellings.	BCFP	Banks will not be able to benefit from this provision until the bureau promulgates a regulation. ICBA has already submitted a comment letter to the bureau, asking that it quickly implement this change by issuing an interim final rule.
Sec. 109 – No Wait for Lower Mortgage Rates	Removes three-day waiting period required under TILA-RESPA mortgage disclosure when creditor extends a second offer of credit with lower APR.	BCFP	In effect (<i>but awaiting guidance</i>) Banks are already able to take advantage of this relief. The bureau issued guidance that incorporates this provision, which Congress codified in S. 2155.
Sec. 201 – Capital Simplification for Qualifying Community Banks	Agencies to establish a community bank leverage ratio (CBLR) between 8-10 percent; banks exceeding the ratio meet risk-based capital and leverage requirements and are “well-capitalized.”	FDIC, OCC, Fed	High-priority. The agencies will establish the CLBR after notice and comment rulemaking and after consulting with the state bank supervisors. ICBA has met with the FDIC and is advocating for a CBLR that is close to 8 percent. The agencies also will establish procedures for the treatment of community banks that fall below the CBLR after exceeding the ratio.
Sec. 202 – Limited Exception for Reciprocal Deposits	Certain reciprocal deposits will not be considered brokered deposits.	FDIC	In effect, proposed rule issued. The FDIC has issued proposed conforming rules with a 30-day comment period. This is the first part of a two-part effort to revisit the brokered deposit rules. The FDIC plans later this year to seek comment on the brokered deposit regulations more generally.
Sec. 203 – Community Bank Relief from Volcker Rule	Banks under \$10 billion in assets with total trading assets and liabilities not exceeding 5 percent of total assets exempt from the Volcker rule.	FDIC, OCC, Fed	In effect (<i>but awaiting guidance</i>). The agencies have indicated that they will not enforce the final Volcker Rule in a manner inconsistent with the statutory changes. However, the agencies intend to address the statutory changes through a separate rulemaking process.
Sec. 205 – Short-Form Call Reports	Agencies required to reduce reporting requirements for the first and third quarters for banks under \$5 billion in assets and that meet other appropriate criteria.	FDIC, OCC, Fed	High-priority. The new short-form call report will be established after notice and comment rulemaking. ICBA is advocating a short-form call report consisting of: balance sheet, income statement and statement of stockholders’ equity, without additional schedules.

Section/Subject	Summary	Agency	Status
Sec. 206 – Option for Federal Savings Associations to Operate as Covered Savings Associations	Institutions with assets of \$20 billion or less can elect to operate with national bank powers.	OCC	Proposal issued. The OCC issued a proposed rule with a 60-day comment period.
Sec. 207 – Small Bank Holding Company Policy Statement	Raises the Federal Reserve’s Small Bank Holding Company Policy Statement’s asset limit from \$1 billion to \$3 billion.	Fed	In effect. The interim final rule is available here .
Sec. 210 – Examination Cycle	Well-managed, well-capitalized banks with assets of less than \$3 billion qualify for 18-month exam cycle, up from \$1 billion.	FDIC, OCC, Fed	In effect. The interim final rule is available here .
Sec. 214 – Promoting Construction and Development on Main Street	Acquisition, development and construction loans that meet certain criteria will not have higher risk-weights under risk-based capital rules.	FDIC, OCC, Fed	In effect. The agencies issued a statement that this is effective immediately and that banks only need to risk-weight at 150 percent those CRE exposures they believe meet the statutory definition of HVCRE ADC loan. Also, when reporting HVCRE exposures on the call report, banks may use available information to reasonably estimate and report only HVCRE ADC loans. Alternatively, banks may also continue to report and risk-weight HVCRE exposures consistent with the current instructions for the call report until the agencies take further action. The agencies have also proposed to revise the definition of an “HVCRE exposure” to conform to the new statutory definition of “HVCRE ADC loan.”
Sec. 401 – Enhanced Supervision and Prudential Standards for Certain Bank Holding Companies	Increases the asset threshold at which certain enhanced prudential standards shall apply, from \$50 billion to \$250 billion, while allowing the Fed discretion in determining whether a financial institution with assets of \$100 billion or more must be subject to such standards.	FDIC, OCC, Fed	To resolve a technical problem with the statute, the agencies are extending the deadlines for all regulatory requirements related to company-run stress testing for banks with average total consolidated assets of less than \$100 billion until Nov. 25, 2019, at which time all banks and BHCs with total consolidated assets of less than \$250 billion will be exempt. However, conforming regulations will be issued. Also, the

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	<p>It also increases the asset threshold at which company-run stress tests are required, from \$10 billion to \$250 billion, and increases the asset threshold for mandatory risk committees, from \$10 billion to \$50 billion.</p>		<p>agencies have indicated that while they will not take action to require company-run stress testing by banks with assets less than \$100 billion – “the capital planning and risk management practices of these institutions would continue to be reviewed through the regular supervisory process.”</p>
<p>Sec. 403 – Treatment of Certain Municipal Obligations</p>	<p>Agencies directed to classify investment-grade muni bonds as level 2B liquid assets under the liquidity coverage ratio rule.</p>	<p>FDIC, OCC, Fed</p>	<p>In effect. The interim final rule is available here.</p>