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March 27, 2025

The Honorable French Hill
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Re: Response to “Make Community Banking Great Again” Banking Principles

Dear Chairman Hill:

On behalf of ICBA and the nearly 45,000 community bank locations we represent, I write to thank you for crafting a robust and thoughtful set of Banking Principles to guide policymaking and regulatory oversight in the 119th Congress and for convening a February 5th hearing titled “Make Community Banking Great Again,” at which I was honored to testify. This letter, together with my hearing statement and the ongoing communications between ICBA staff and committee staff, constitutes ICBA’s feedback on your principles. We look forward to working with you to advance policies that will help ensure community banks can best serve the credit needs of individuals and small business across our nation.

ICBA’s Agenda for the new Congress, “**Transforming Regulation for Growth: The Community Bank Legislative Agenda**,” strongly overlaps with your Banking Principles. The Agenda was sent to the House of Representatives in January and is attached to this letter.

A reoccurring theme of your banking principles is the need to update regulatory thresholds. ICBA urges the Financial Services Committee to make a thorough review of all existing regulatory thresholds and update them where it can be done without sacrificing fundamental consumer protections or safety and soundness. Doing so is one of the simplest ways to provide needed regulatory relief and promote essential lending without rewriting statutes. Updated thresholds should reflect the growth in average asset size of community banks over the decades as industry has consolidated. ICBA has compiled a comprehensive list of outdated regulatory thresholds and our recommendations for updating them. This list is attached for your consideration.

Thank you again for crafting a set of Banking Principles and for considering the feedback of ICBA and all interested parties. Your Principles and our policy recommendations will play a critical role in

creating a robust economy and a more competitive financial landscape to better serve small businesses and consumers.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

Attachments:

- Written statement of Rebeca Romero Rainey for February 5th hearing on “Make Community Banking Great Again”
- Transforming Regulation for Growth: The Community Bank Legislative Agenda
- ICBA recommendations for updating bank regulatory thresholds

Testimony of
Rebeca Romero Rainey

President and Chief Executive Officer
Independent Community Bankers of America

On behalf of the
Independent Community Bankers of America

Before the
U.S. House of Representatives
Committee on Financial Services

Hearing on
“Make Community Banking Great Again”

February 5, 2025
Washington, D.C.

Opening

Chairman Hill, Ranking Member Waters, and members of the Committee, I am Rebeca Romero Rainey, President and CEO of the Independent Community Bankers of America, and I testify today on behalf of thousands of community banks across America. Thank you for convening today's hearing on "Make Community Banking Great Again." I'm delighted that we share a commitment to a future of great community banks. Our nation's prosperity depends on them. The new Congress and Administration present an opportunity to transform the regulatory environment for community banks, sparking economic growth in rural, suburban, and urban markets. We look forward to working with this committee in the coming weeks to leverage and amplify the unique and extraordinary value our great community banks bring to local economies. Attached to this statement is ICBA's "**Transforming Regulation for Growth: The Community Bank Legislative Agenda**," which has been endorsed by all 44 of our affiliated state associations.

Before proceeding, I would like to take a moment to introduce myself. Before joining ICBA, I was Chairman and CEO of Centinel Bank of Taos, a \$415 million asset bank and Minority Depository Institution in Taos, New Mexico. I'm a third-generation community banker. Centinel was founded by my grandfather, Eliu E. Romero, in 1969 after he was denied a loan to finance his start-up law practice. I'm proud to carry on his legacy – first at Centinel and now at ICBA – of investing in communities by providing access to credit on an equitable basis to all responsible borrowers.

What Makes Community Banks Great?

While many of you already appreciate the value of community banks, others are new to this committee. Welcome! I will take a minute to describe the unique role community banks play in the American economy.

Community banks have deep roots in the communities they serve, often for many generations. More than 1,000 community banks are more than 100 years old and have survived the Great Depression, the Great Recession, and numerous other systemic shocks, standing by their customers in catastrophic times. Others are de novo charters, poised for growth. We need more of these!

In a community bank, local deposits are reinvested back into local credit, not exported to distant markets. We often serve communities overlooked by larger, out-of-market institutions. In one in three U.S. counties, community banks are the only on-the-ground banking option.

While we make all types of loans needed in our communities, community banks are responsible for a disproportionate number of Main Street small business loans, especially in small communities, and around 70 percent of bank agricultural loans. Unlike other institutions, we take the time and care to customize products and services based on the unique needs of our customers. Commoditized products are poor fit for the communities we serve.

Finally, old or new, community banks are modernizing and embracing innovation and new technologies to reach more customers and small businesses. “Responsible innovation” is our motto. We lean into the future and the promise it holds.

I hope this gives you a better appreciation for our passion for community banking. A strong industry is vital to a prosperity that reaches all markets, demographics, and geographies.

Chairman Hill’s Banking Principles

I want to thank Chairman Hill for crafting a set of banking principles to guide policymaking and regulatory oversight in the 119th Congress. ICBA is committed to realizing these thoughtful and comprehensive principles, and we are pleased to provide detailed feedback for your consideration.

I will summarize here ICBA’s views on Chairman Hill’s principles. There is, unsurprisingly, strong overlap between those principles and ICBA’s agenda for the new Congress, **“Transforming Regulation for Growth: The Community Bank Legislative Agenda,”** which is attached to this testimony.

Advance Tiered Regulation

The most basic thing we seek is responsible regulatory relief. Inefficient and prescriptive regulations continue to encumber community bank lending, drive industry consolidation, and inhibit local economic growth.

Regulatory thresholds create tiered regulation for an industry that ranges the spectrum from multi-trillion-dollar institutions to locally based community banks. Simple common sense – which is making a comeback – tells us that regulatory mandates designed for systemically risky, high-volume, transaction-based institutions are a poor fit, and indeed destructive to, community banks. “One-size-fits-all” regulations disproportionately burden community banks that don’t have dedicated legal and compliance departments and have smaller asset bases over which to spread compliance costs.

Current thresholds are overdue for an update, and we are pleased to see this project among the Chairman’s principles. Examples of outdated thresholds include: the CFPB’s examination threshold which exempts banks with assets of less than \$10 billion, the Community Reinvestment Act thresholds which define Small Bank and Intermediate Small Bank with different assessment criteria, the asset threshold under which a well-managed and well-capitalized bank qualifies for an 18-month exam cycle, among numerous others.

I urge this committee to make a thorough review of all existing regulatory thresholds and update them where it can be safely done, without sacrificing fundamental consumer protections or safety and soundness. Doing so is the simplest way to provide needed regulatory relief and promote essential lending without rewriting statutes. Updated thresholds should reflect the growth in average asset size of community banks over the decades as the industry consolidates.

Relief from Intrusive Small Business Data Collection Rule

Top of mind for community bankers and small business borrowers is the destructive impact of the CFPB's final rule under Section 1071 of the Dodd-Frank Act. The rule has not yet been implemented but is already having an adverse impact.

As you know, the CFPB's rule requires community banks and other financial institutions to collect and report 81 pieces of data on every small business loan application, well beyond what is required by statute. Intrusive data collection will compromise the privacy of small business applicants, effectively "commoditize" small business lending, and increase the cost of credit.

ICBA thanks members of this committee for passage in the last Congress of bipartisan legislation under the Congressional Review Act to repeal the CFPB rule.

With the new Congress and Administration, you have the opportunity to fully repeal Section 1071, completing and expanding on the work you started last Congress under the Congressional Review Act.

Just this week, Congressman Roger Williams, who chairs the Small Business Committee, introduced the "1071 Repeal to Support Small Business Lending Act." Statutory repeal of mandated data collection, embodied in this legislation, is the simplest and best solution. ICBA thanks Congressman Williams for his straightforward approach.

Short of full statutory repeal, the exemptions would be significantly improved by Chairman Hill's Small LENDER Act, which would exempt from the rule banks that make fewer than 500 small business loans in each of the two preceding years (versus only 100 such loans under the rule) and would define a "small business" as a business with less than \$1 million in annual revenue (versus \$5 million under the rule). The Small LENDER Act would provide community banks with significant relief and, in turn, would provide small businesses the credit they need to continue to grow.

De Novo Charters

I have noted above the accelerating trend of consolidation in the banking industry, driven in large part by increasing regulatory compliance costs. The complexity and volume of new regulation is a strong disincentive for de novo bank charters. I doubt that my family's bank, Centinel, or many other community banks would have been chartered if they had been faced with the daunting regulatory cost and complexity and high minimum capital expectations that exist today.

Consolidation fundamentally reduces competition in the market for financial products and services, increasing loan interest costs and driving down interest paid on deposits. Community bank consolidation, coupled with the dearth of new charters, will leave many communities – particularly rural communities – without a local bank or access to local credit.

This country needs more de novo charters to offset the impact of consolidation and increase access to safe and sound financial services for consumers and small businesses across the nation. Before passage

of the Dodd-Frank Act, de novo banks were created at a rate of 170 new charters per year on average. Since that time, we have averaged only a handful of new charters per year. This is a dramatic shift that deserves action by this committee.

ICBA thanks Representative Andy Barr for reintroducing the Promoting New Bank Formation Act (H.R. 478), which would promote the creation of de novo community banks, especially in America's rural areas. H.R. 478 would provide more regulatory, capital and lending flexibility for newly chartered banks, facilitating their creation and promoting their viability.

Currency Transaction Reports

Turning to another source of costly frustration to community banks, the thresholds under the Bank Secrecy Act have not been adjusted since the law was enacted in 1970. ICBA recommends raising the currency transaction report (CTR) threshold from \$10,000 to \$30,000 and indexing future increases on an annual basis. The outdated threshold captures far more transactions than originally intended. A higher threshold would produce more targeted, useful information for law enforcement. ICBA calls for the implementation of Section 6204 of the Anti-Money Laundering Act of 2020, which requires the Treasury secretary to review the efficacy of the current BSA-reporting thresholds.

New Sources of Community Bank Capital Needed

Since 2007, the public capital markets have often been either unavailable or unattractive to many community banks and holding companies. Community banks have had to rely more on existing shareholders, directors and insiders for capital raises and less on new investors, including institutional investors.

ICBA's recommendations include reform of SEC Regulation D 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 permitted to purchase stock under a private offering should be increased from 35 to 70.

About 1,500 community banks – or a third of all banks – are organized under Subchapter S of the tax code. Subchapter S banks are "pass through" entities, taxed at the shareholder level. Shareholders are responsible for paying taxes on their pro-rata of the bank's net income, whether that income is distributed or not.

ICBA is pleased that Chairman Hill's Principles include a policy change that would promote capital raising and transfer of shares at Subchapter S banks. Under current law, a Subchapter S bank may have no more than 100 shareholders. Increasing the shareholder limit, as the Chairman recommends, would allow these banks to raise more capital and bank shares would become more liquid by increasing the pool of available investors at each bank. Higher and more liquid capital translates into more community lending.

ICBA recommends additional changes to Subchapter S. Under current law, individual retirement accounts (IRAs) are not permitted to purchase or hold shares in Subchapter S companies in any industry. I know many bankers who would like to use their personal IRAs to inject capital into their banks and solicit capital from IRAs owned by others.

Further, Subchapter S banks should be allowed to issue preferred shares, which are currently prohibited. Preferred shares allow a bank to raise capital without diluting ownership (preferred shares are non-voting) so that the bank may retain its character as a closely held institution focused on its community.

These changes under SEC Regulation D and tax code Subchapter S would strengthen banks in the service of their communities.

The greatest threat facing Subchapter S bankers and their small business customers this year is the pending expiration of tax code Section 199A, enacted in the Tax Cuts and Jobs Act, which provides for a 20 percent deduction of business income. The loss of this deduction would amount to a punitive and destructive tax increase and capital loss for Subchapter S banks. Section 199A helps keep Subchapter S banks in rough parity with C corporation banks, which are taxed at 21 percent. We ask the support of this committee for H.R. 703, sponsored by Representative Lloyd Smucker, which would permanently extend Section 199A. We thank the Chairman and the many other members of this committee who have already cosponsored this important legislation.

I refer you to our legislative agenda for the full list of our tax policy recommendations.

Resolution of Failing Institutions

Chairman Hill's Principles include changes to resolution policy in the case of failing institutions. The proposed changes, such as waiver of the Least Cost Resolution (LCR) if the FDIC finds that a transaction would increase competition and facilitate economic growth and restrictions to waivers on the national deposit cap rule which prohibits mergers that would result in an institution holding more than 10 percent of bank deposits nationwide. These changes would increase the pool of available bidders on failing banks and help ensure that these banks are not purchased by the largest banks thereby exacerbating the problem of industry consolidation which harms competition.

Bank Exam Reform

Chairman Hill's Principles include recommendations to create more fairness, accountability, and transparency in the bank examination process. Bank examiners too often focus on technicalities rather than substantive and material issues of risk mitigation.

The Principles include reform of the appeals process, such as provided for in the FAIR Exams Act, sponsored by the Chairman in the last Congress, which would create an independent body for the review of exam appeals, among other provisions. The Chairman also recommends an 18-month exam cycle for more well-managed and well-capitalized banks. The extended exam cycle threshold is currently set at \$3

billion bank assets. ICBA supports increasing this threshold to \$6 billion, which would provide relief for approximately 150 community banks, allowing them to divert resources toward customers.

Deposit Insurance Reform

Community banks are highly stable institutions in which consumers have confidence in the security of their deposits. ICBA thanks Chairman Hill, Ranking Member Waters and the members of this committee for its thoughtful, deliberative approach to any reform of deposit insurance and appreciates our inclusion in these important discussions.

We look forward to working with the Committee and the FDIC on thoughtful and targeted deposit insurance reform that is appropriately tiered and risk weighted. A primary objective of any proposed reform should be to end any misconception that too-big-to-fail institutions enjoy an implied, unlimited deposit insurance guarantee.

Historically, ICBA has supported transaction account guarantee (TAG) programs, which protect small business operating and payroll accounts. The FDIC should have discretion to quickly establish a TAG, or other measures necessary, to protect institutions and the financial system in the moment of failure. When banks fail, there is simply not time to work with other agencies and Congress to identify solutions. The FDIC should have an at-the-ready, frictionless process for bank resolution that does not pick winners and losers that results from unnecessary red tape.

Promote and Strengthen Community Development Financial Institutions and Minority Depository Institutions

ICBA will continue to support legislation that helps promote and strengthen our CDFI and MDI members. We look forward to working with members of the committee to help our members serve their customers in rural and underserved areas by advocating for policies that will facilitate de-novo formation, preserve funding for the CDFI Fund, foster partnerships between minority depository institutions and other financial institutions, and support tax credits to help drive equity investment into CDFIs.

Strengthening Financial Consumers

As the financial landscape evolves, new threats emerge to America's financial consumers. Policy changes are needed to keep pace with technological developments and more sophisticated fraud. The policy recommendations below would protect and strengthen America's financial consumers.

End “Trigger Leads” Harassment

Legislation is needed that would restrict credit reporting agencies from the sale of consumers’ contact information when they apply for a residential mortgage. These “trigger leads” compromise consumer privacy and create a flood of unwanted solicitations and confusion for community bank customers. ICBA urges Congress to resume work on the Homebuyers Privacy Protection Act, bipartisan legislation advanced in the 118th Congress. I thank Congressmen John Rose and Ritchie Torres for their concerted work on this legislation, along with Chairman Hill and many other members of the committee who cosponsored the Homebuyers Privacy Protection Act last Congress.

Close ILC Loophole to Limit Big Tech Overreach

Industrial loan companies (ILCs) are the functional equivalent of full-service banks without regulation by the Bank Holding Company Act. This exemption invites risk into the financial system. ILCs owned by non-financial companies, including Big Tech, violate the longstanding separation of banking and commerce by allowing commercial entities to own banks. New ILC charters controlled by dominant social media and e-commerce conglomerates would give these companies yet more economic power and reach into the lives of Americans. ICBA supports statutory closure of the ILC loophole.

Help Community Banks Eliminate Check Fraud

The administrative agencies must play a stronger role in combatting the alarming rise in check fraud, which has surged by 385% since the pandemic and costs Americans and small businesses billions of dollars every year. ICBA has called for a coordinated effort by the federal banking agencies, the National Credit Union Administration, the U.S. Postal Service, the Financial Crimes Enforcement Network, and other agencies. Greater congressional oversight of this critical effort will ensure it is effective.

Credit Card Routing Mandates

ICBA will continue to strongly oppose controversial legislation that would create complex new credit card routing mandates. Such mandates would force an overhaul of the payments landscape at significant systemic cost. This cost would ultimately be borne by consumers and the community banks that serve them. Credit card routing mandates would only benefit the largest “big-box” and big online merchants including Amazon, Walmart, and others at the expense of consumers.

Protecting Customer Data

The CFPB recently finalized a rule under Section 1033 of the Dodd-Frank Act that requires banks to create and maintain an API-enabled “developer portal” which non-bank fintechs and other third parties could use to access customer data. The rule creates a threat to consumer data security and privacy. Banks cannot effectively be responsible to ensure the security protocols of potentially thousands of fintechs seeking access to their customers’ data. In addition, banks must be permitted to charge reasonable fees to third parties – who will financially benefit from access to customer data – in order to

offset the significant costs of compliance with this rule.

Digital Assets

ICBA looks forward to continual engagement with the committee on any digital assets legislation. Any disruption or disintermediation that results in loss of liquidity that flows to consumers or small business customers through the financial system must be taken into account, while ensuring the overall safety and soundness and the payments system on which American commerce depends.

Equitable Treatment of Financial Services Providers

ICBA strongly believe that all financial services providers should be subject to the equivalent supervision, oversight, and taxation. Credit unions and Farm Credit System lenders offer the same products and services as banks but enjoy significant tax and regulatory advantages that ultimately harm community banks and the communities they serve.

Closing

ICBA thanks this committee for convening this important hearing and for the opportunity to present the views of the community banking industry. Together, we can make community banks even greater. Regulation has the power to make or break credit availability in thousands of communities across America. ICBA believes that the Chairman's Principles and our policy recommendations will play a critical role in creating a robust economy and a more competitive financial landscape to better serve small businesses and consumers.

I'm happy to take your questions.

Attached: ICBA's "Transforming Regulation for Growth: The Community Bank Legislative Agenda"

Transforming Regulation for Growth: The Community Bank Agenda

ICBA's legislative agenda would create a framework of streamlined regulation and low taxation for community banks and their customers. Community bank credit fuels local economic growth in thousands of communities across America.

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

Fix Destructive Regulatory Burden

Overly prescriptive regulations continue to encumber community bank lending and inhibit economic growth. Excessive regulation of community banks drives industry consolidation that will directly harm consumers and small businesses. Community bank regulatory relief will promote the flow of credit and economic opportunity for households and small businesses.

Simple, transparent, and streamlined regulations can be administered more efficiently and reduce government cost, saving taxpayer dollars.

ICBA recommendations include:

Update Regulatory Thresholds for Community Banks. Congress and the regulatory agencies should comprehensively review and update the many thresholds used to tier bank regulation and supervision. Tiered regulation recognizes the significant differences between community banks and large, complex institutions in terms of the risks they pose to consumers and to the financial system. To work as originally intended and remain aligned with an evolving financial services landscape, thresholds for regulatory accommodations and exemptions based on asset size, risk profile, and transaction volume should be continually reviewed and adjusted upward as community banks consolidate and the average asset size of banks increases.

Relief from Intrusive Small Business Data Collection Rule. The CFPB's rule under Dodd-Frank Section 1071 requires community banks and other financial institutions to collect and report 81 pieces of data on every small business loan application, well beyond what is required by statute. Intrusive data collection will compromise the privacy of small business applicants, effectively "commoditize" small business lending, and increase the cost of credit.

The 118th Congress demonstrated its staunch opposition to the CFPB rule by passing bipartisan House and Senate legislation to repeal it, only to be vetoed. In addition, legislative fixes were advanced that would exempt more community banks and more small business borrowers.

ICBA urges the 119th Congress to promptly repeal or substantially revise Section 1071 to limit the implementation of a destructive rule.

The Supreme Court's Chevron Reversal Should Lead Policymakers to Reconsider More Harmful and Inefficient Rules. In June 2024, a Supreme Court ruling effectively curbed *Chevron* deference, which gave agencies discretion to interpret ambiguous laws through rulemaking. This ruling creates an opportunity for a comprehensive review of regulations with the goal of cost cutting and more efficient government.

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 calls for the implementation of Section 6204 of the Anti-Money Laundering Act of 2020, which requires the Treasury secretary to review the efficacy of the current BSA-reporting thresholds.

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 SEC-mandated internal control audit requirements should be created for publicly traded banks with a market capitalization of at least \$350 million or less regardless of revenue. 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 or a company with less than \$700 million in market capitalization with annual revenue less than \$100 million is exempt from the SEC mandate. 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 permitted to purchase stock under a private offering should be increased from 35 to 70.

Ensuring a Competitive Financial Landscape

The separation of banking and commerce is a longstanding principle of American financial policy and has been critical to our nation’s economic success. 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 it promotes community bank innovation. Congress should create a level playing field and ensure frameworks do not harm consumers, distort competition, or provide regulatory advantages to new entrants in the marketplace over current providers, such as community banks.

The competitive advantages enjoyed by tax-exempt credit unions and Farm Credit System lenders warrant special scrutiny.

Preserve and Enhance a Competitive Tax Environment.

ICBA advocates for pro-growth tax relief for America’s small businesses, families, and community banks. Expiring provisions of the Tax Cuts and Jobs Act should be permanently extended to provide long-term certainty for business planning, including:

- The 20-percent deduction for pass-through income (Section 199A).
- The structure of individual rates and brackets that allows Americans to keep more of their hard-earned dollars.
- The higher deduction under the alternative minimum tax (AMT).
- An estate tax exemption that does not force sales of family-owned businesses.

Full expensing for equipment purchases and the deductibility of business interest are pro-growth policies and must be restored. Further, we urge Congress to build on the success of the TCJA by an additional reduction in corporate rate. The 21 percent corporate has proven one of the most impactful components of that legislation, increasing corporate investments and job creation. Additional relief would accelerate American economic growth.

Comprehensive tax legislation must include the Access to Credit for Rural Economies (ACRE) Act to promote rural economic development. The ACRE Act would create a tax exclusion for

interest received on qualifying loans to farmers, ranchers, and rural homeowners and thereby reduce interest rates for these borrowers.

Tax reform should include a review of the tax exemption enjoyed by today's multi-billion-dollar credit unions. These institutions have outstripped their public mission and tax-exempt purpose and are now leveraging their tax exemption to purchase tax-paying community banks. The pace of these acquisitions in recent years is driving the consolidation of financial services across all markets, to the harm of consumers and small businesses.

These tax policies are important to creating economic growth and jobs for American workers.

Close ILC Loophole to Limit Big Tech Overreach. Industrial loan companies (ILCs) are the functional equivalent of full-service banks without regulation by the Bank Holding Company Act. This exemption invites risk into the financial system. ILCs owned by non-financial companies, including Big Tech, violate the longstanding separation of banking and commerce by allowing commercial entities to own banks. New ILC charters controlled by dominant social media and e-commerce conglomerates would give these companies yet more economic power and reach into the lives of Americans. ICBA supports statutory closure of the ILC loophole.

Promoting De Novo Community Banks. De novo community bank formation is needed to offset the loss of smaller community banks through consolidation and help ensure a robust community bank landscape serving small businesses and households. ICBA supports a flexible and tailored supervisory policy for de novo banking applicants.

Ensuring Effective Digital Assets Regulation. Effective and comprehensive regulation is needed to recognize and balance the risks and benefits of emerging technologies. ICBA strongly opposes efforts to grant nonbank stablecoin issuers access to the Federal Reserve master account or payment rails and special-purpose charters that do not subject nonbank stablecoin issuers to the standards of safety, soundness, and fairness that apply to insured depository institutions.

Credit Card Routing Mandates. ICBA will continue to strongly oppose controversial legislation that would create complex new credit card routing mandates. Such mandates would force an overhaul of the payments landscape at significant systemic cost. This cost would ultimately be borne by consumers and the community banks that serve them. Credit card routing mandates would only benefit the largest "big-box" merchants including Amazon, Walmart, and others at the expense of consumers.

Curb or Eliminate Tax Subsidies for Rapid-Growth, Bank-Like Credit Unions. The outmoded subsidization of credit unions is an inefficient use of taxpayer dollars and ripe for repeal. Today's multi-billion-dollar credit unions are leveraging their tax subsidy to purchase tax-paying community banks. This trend is reducing consumer choice and eroding the tax base of states, localities, and the federal government. ICBA urges Congress to restore balance to the

American financial services marketplace and help close the growing budget deficit by re-examining the 100-year-old credit union tax subsidy.

Revitalize Rural America

The recent elections reaffirmed the critical voice of rural Americans, who have earned a place at the center of our policy agenda. The vital interests of rural economies must be prioritized in the 119th Congress. Rural communities are poised for growth and prosperity with the right combination of thoughtful policies. Community banks, funding nearly 80 percent of bank-originated agricultural loans, play a critical role in creating and sustaining rural economic prosperity. The following provisions will help rural America and strengthen community banks.

Farm Bill. ICBA advocates for a robust Farm Bill in 2025 that raises USDA guaranteed loan limits in addition to providing a strong farm safety net that includes robust commodity price supports and enhanced crop insurance options for producers.

Farm Credit System Crowding Out Rural Community Bank Lending. The Farm Credit System (FCS) is a government-sponsored enterprise (GSE), and FSC lenders enjoy unfair tax and funding advantages over rural community banks. These advantages allow FCS to cherry-pick the best customers and loans from taxpaying community banks by underpricing local markets. In recent years, the FCS has sought expansive non-farm lending powers in an effort to compete directly with commercial banks for non-farm customers. Congress should hold hearings on the FCS given their rapid consolidation and questionable non-farm lending pursuits.

Tax Incentives for Community Bank Agriculture and Home Loans. ICBA strongly supports the Access to Credit for Rural Economies (ACRE) Act, which has enjoyed broad bipartisan support. ACRE would create lower interest rates for farmers, ranchers, and rural homeowners by creating a tax exclusion for interest income on loans secured by agricultural land and residential mortgages in rural communities. The ACRE Act should be included in any comprehensive tax legislation in the 119th Congress.

Strengthening Financial Consumers

As the financial landscape evolves, new threats emerge to America's financial consumers. Policy changes are needed to keep pace with technological developments and more sophisticated fraud.

End "Trigger Leads" Harassment. Legislation is needed that would restrict credit reporting agencies from the sale of consumers' contact information when they apply for a residential mortgage. These "trigger leads" compromise consumer privacy and create a flood of unwanted solicitations and confusion for community bank customers. ICBA urges Congress to resume work on the Homebuyers Privacy Protection Act, bipartisan legislation advanced in the 118th Congress.

Eliminate Check Fraud. The administrative agencies must play a stronger role in combatting the alarming rise in check fraud, which has surged by 385% since the pandemic and costs Americans and small businesses billions of dollars every year. A coordinated effort is needed by the federal banking agencies, the National Credit Union Administration, the U.S. Postal Service, the Financial Crimes Enforcement Network, and other agencies. Congressional oversight of this critical effort will ensure it is effective.

Protecting Customer Data. The CFPB recently finalized a rule under Section 1033 of the Dodd-Frank Act that requires banks to create and maintain an API-enabled “developer portal” which non-bank fintechs and other third parties could use to access customer data. The rule creates a threat to consumer data security and privacy. Banks cannot ensure the security protocols of potentially thousands of fintechs seeking access to their customers’ data. In addition, banks must be permitted to charge reasonable fees to third parties – who will financially benefit from access to customer data – in order to offset the significant costs of compliance with this rule.

Transforming Regulation for Growth: The Community Bank Agenda

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ICBA recommendations include:

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ICBA urges the 119th Congress to promptly repeal or substantially revise Section 1071 to limit the implementation of a destructive rule.

The Supreme Court's Chevron Reversal Should Lead Policymakers to Reconsider More Harmful and Inefficient Rules. In June 2024, a Supreme Court ruling effectively curbed *Chevron* deference, which gave agencies discretion to interpret ambiguous laws through rulemaking. This ruling creates an opportunity for a comprehensive review of regulations with the goal of cost cutting and more efficient government.

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 calls for the implementation of Section 6204 of the Anti-Money Laundering Act of 2020, which requires the Treasury secretary to review the efficacy of the current BSA-reporting thresholds.

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 SEC-mandated internal control audit requirements should be created for publicly traded banks with a market capitalization of at least \$350 million or less regardless of revenue. 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 or a company with less than \$700 million in market capitalization with annual revenue less than \$100 million is exempt from the SEC mandate. 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 permitted to purchase stock under a private offering should be increased from 35 to 70.

Ensuring a Competitive Financial Landscape

The separation of banking and commerce is a longstanding principle of American financial policy and has been critical to our nation’s economic success. 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 it promotes community bank innovation. Congress should create a level playing field and ensure frameworks do not harm consumers, distort competition, or provide regulatory advantages to new entrants in the marketplace over current providers, such as community banks.

The competitive advantages enjoyed by tax-exempt credit unions and Farm Credit System lenders warrant special scrutiny.

Preserve and Enhance a Competitive Tax Environment.

ICBA advocates for pro-growth tax relief for America’s small businesses, families, and community banks. Expiring provisions of the Tax Cuts and Jobs Act should be permanently extended to provide long-term certainty for business planning, including:

- The 20-percent deduction for pass-through income (Section 199A).
- The structure of individual rates and brackets that allows Americans to keep more of their hard-earned dollars.
- The higher deduction under the alternative minimum tax (AMT).
- An estate tax exemption that does not force sales of family-owned businesses.

Full expensing for equipment purchases and the deductibility of business interest are pro-growth policies and must be restored. Further, we urge Congress to build on the success of the TCJA by an additional reduction in corporate rate. The 21 percent corporate has proven one of the most impactful components of that legislation, increasing corporate investments and job creation. Additional relief would accelerate American economic growth.

Comprehensive tax legislation must include the Access to Credit for Rural Economies (ACRE) Act to promote rural economic development. The ACRE Act would create a tax exclusion for

interest received on qualifying loans to farmers, ranchers, and rural homeowners and thereby reduce interest rates for these borrowers.

Tax reform should include a review of the tax exemption enjoyed by today's multi-billion-dollar credit unions. These institutions have outstripped their public mission and tax-exempt purpose and are now leveraging their tax exemption to purchase tax-paying community banks. The pace of these acquisitions in recent years is driving the consolidation of financial services across all markets, to the harm of consumers and small businesses.

These tax policies are important to creating economic growth and jobs for American workers.

Close ILC Loophole to Limit Big Tech Overreach. Industrial loan companies (ILCs) are the functional equivalent of full-service banks without regulation by the Bank Holding Company Act. This exemption invites risk into the financial system. ILCs owned by non-financial companies, including Big Tech, violate the longstanding separation of banking and commerce by allowing commercial entities to own banks. New ILC charters controlled by dominant social media and e-commerce conglomerates would give these companies yet more economic power and reach into the lives of Americans. ICBA supports statutory closure of the ILC loophole.

Promoting De Novo Community Banks. De novo community bank formation is needed to offset the loss of smaller community banks through consolidation and help ensure a robust community bank landscape serving small businesses and households. ICBA supports a flexible and tailored supervisory policy for de novo banking applicants.

Ensuring Effective Digital Assets Regulation. Effective and comprehensive regulation is needed to recognize and balance the risks and benefits of emerging technologies. ICBA strongly opposes efforts to grant nonbank stablecoin issuers access to the Federal Reserve master account or payment rails and special-purpose charters that do not subject nonbank stablecoin issuers to the standards of safety, soundness, and fairness that apply to insured depository institutions.

Credit Card Routing Mandates. ICBA will continue to strongly oppose controversial legislation that would create complex new credit card routing mandates. Such mandates would force an overhaul of the payments landscape at significant systemic cost. This cost would ultimately be borne by consumers and the community banks that serve them. Credit card routing mandates would only benefit the largest "big-box" merchants including Amazon, Walmart, and others at the expense of consumers.

Curb or Eliminate Tax Subsidies for Rapid-Growth, Bank-Like Credit Unions. The outmoded subsidization of credit unions is an inefficient use of taxpayer dollars and ripe for repeal. Today's multi-billion-dollar credit unions are leveraging their tax subsidy to purchase tax-paying community banks. This trend is reducing consumer choice and eroding the tax base of states, localities, and the federal government. ICBA urges Congress to restore balance to the

American financial services marketplace and help close the growing budget deficit by re-examining the 100-year-old credit union tax subsidy.

Revitalize Rural America

The recent elections reaffirmed the critical voice of rural Americans, who have earned a place at the center of our policy agenda. The vital interests of rural economies must be prioritized in the 119th Congress. Rural communities are poised for growth and prosperity with the right combination of thoughtful policies. Community banks, funding nearly 80 percent of bank-originated agricultural loans, play a critical role in creating and sustaining rural economic prosperity. The following provisions will help rural America and strengthen community banks.

Farm Bill. ICBA advocates for a robust Farm Bill in 2025 that raises USDA guaranteed loan limits in addition to providing a strong farm safety net that includes robust commodity price supports and enhanced crop insurance options for producers.

Farm Credit System Crowding Out Rural Community Bank Lending. The Farm Credit System (FCS) is a government-sponsored enterprise (GSE), and FSC lenders enjoy unfair tax and funding advantages over rural community banks. These advantages allow FCS to cherry-pick the best customers and loans from taxpaying community banks by underpricing local markets. In recent years, the FCS has sought expansive non-farm lending powers in an effort to compete directly with commercial banks for non-farm customers. Congress should hold hearings on the FCS given their rapid consolidation and questionable non-farm lending pursuits.

Tax Incentives for Community Bank Agriculture and Home Loans. ICBA strongly supports the Access to Credit for Rural Economies (ACRE) Act, which has enjoyed broad bipartisan support. ACRE would create lower interest rates for farmers, ranchers, and rural homeowners by creating a tax exclusion for interest income on loans secured by agricultural land and residential mortgages in rural communities. The ACRE Act should be included in any comprehensive tax legislation in the 119th Congress.

Strengthening Financial Consumers

As the financial landscape evolves, new threats emerge to America's financial consumers. Policy changes are needed to keep pace with technological developments and more sophisticated fraud.

End "Trigger Leads" Harassment. Legislation is needed that would restrict credit reporting agencies from the sale of consumers' contact information when they apply for a residential mortgage. These "trigger leads" compromise consumer privacy and create a flood of unwanted solicitations and confusion for community bank customers. ICBA urges Congress to resume work on the Homebuyers Privacy Protection Act, bipartisan legislation advanced in the 118th Congress.

Eliminate Check Fraud. The administrative agencies must play a stronger role in combatting the alarming rise in check fraud, which has surged by 385% since the pandemic and costs Americans and small businesses billions of dollars every year. A coordinated effort is needed by the federal banking agencies, the National Credit Union Administration, the U.S. Postal Service, the Financial Crimes Enforcement Network, and other agencies. Congressional oversight of this critical effort will ensure it is effective.

Protecting Customer Data. The CFPB recently finalized a rule under Section 1033 of the Dodd-Frank Act that requires banks to create and maintain an API-enabled “developer portal” which non-bank fintechs and other third parties could use to access customer data. The rule creates a threat to consumer data security and privacy. Banks cannot ensure the security protocols of potentially thousands of fintechs seeking access to their customers’ data. In addition, banks must be permitted to charge reasonable fees to third parties – who will financially benefit from access to customer data – in order to offset the significant costs of compliance with this rule.

Methodology for Increasing Thresholds

- In 2010, \$10b asset threshold covered nearly 80 banks, representing the top 1% of the industry (78 of 6,520) [FRB: Large Commercial Banks-- March 23, 2010](#).
- If we were to capture the top 80 banks of the industry today, the asset threshold would be approximately \$25 billion [FRB: Large Commercial Banks-- September 30, 2024](#).
- That 2x increase is attributed to other statutes/regulations, rounded where appropriate.

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Section 1071

- **Current threshold:** 100 small business loans; definition of “small business” is \$5m gross annual revenue.
- **Change to:** 1,500 small business loans; \$1 million gross annual revenue for “small business.”
- **How many banks might be impacted:** Exempts approximately 3,400 community banks while still collecting 90% of small business lending data.
- **Why this helps:** Exempting more community banks will avoid the standardization of small business lending and provide small businesses with more privacy.

CTR/SAR thresholds

- **Current threshold:** CTR is currently set at \$10,000 and SAR is set at \$5,000.
- **Change to:** CTR should be \$30,000 and SAR set at \$15,000.
- **How many banks might be impacted:** Approximately 4,500 banks (virtually all)
- **Why this helps:** increasing the thresholds for both CTRs and SARs would allow banks to focus on more truly suspicious activity rather than reporting large volumes of relatively normal transactions

CRA Compliance (12 CFR parts 25, 228, 345)

- **Current threshold:** \$1.3b
- **Change to:** \$3b
- **How many banks might be impacted:** More than 340 banks between \$1.3b and \$3b
- **Why this helps:** Community banks already serve their communities, compliance is costly, and community development tests are not appropriate for smaller community banks.

Mortgage escrow (12 CFR 1026.35)

- **Current threshold:** \$2.64b for HPML; \$10b and 1,000 first lien mortgages for all others
- **Change to:** \$5b for HPML; \$25b and 2,000 first lien mortgages for all others
- **How many banks might be impacted:** More than 150 banks between \$2.64b and \$5b; 81 banks between \$10b and \$25b
- **Why this helps:** Establishing escrow accounts is costly and complex, especially for small banks or those in rural areas that do not originate many mortgages.

Qualified mortgage

- **Current threshold:** \$2.64b for HPML; \$10b and 1,000 first lien mortgages for all others
- **Change to:** \$25b
- **How many banks might be impacted:** More than 80 banks between \$10b and \$25b
- **Why this helps:** More banks would have automatic “qualified mortgage” status for certain mortgages they originate and hold in portfolio, allowing them to tailor the loan to the individual borrower instead of adhering to a ‘one-size-fits all’ approach.

Home Mortgage Disclosure Act (12 CFR 1003.2.)

- **Current threshold:** \$56m or fewer than 25 closed-end mortgages or 200 open-end lines are exempt.
- **Change to:** \$500MM or fewer than 100 closed-end mortgages or 500 open-end lines.
- **How many banks might be impacted:** Approximately 1,500 banks; undetermined for loan volume
- **Why this helps:** HMDA collection and reporting is very time intensive with examiners scrutinizing for technical compliance rather than substantive.

Exam Cycle (12 U.S.C. 1820(d)(4))

- **Current threshold:** \$3b
- **Change to:** \$6b
- **How many banks might be impacted:** Approximately 145 between \$3b and \$6b
- **Why this helps:** Examinations every 18-months rather than every 12 saves bank time and resources that could be better spent on their customers.

Short form call reports

- **Current threshold:** \$5b
- **Change to:** \$10b
- **How many banks might be impacted:** Approximately 110 between \$5b and \$10b
- **Why this helps:** the short form call report, which require less information to be filed in the first and third quarters, saves time and resources for community banks.

Section 1033

- **Current threshold:** \$850m
- **Change to:** \$2.5b
- **How many banks might be impacted:** Approximately 580 banks between \$850m and \$2.5b
- **Why this helps:** 1033 could potentially lead to increased risk of consumer data breaches by allowing third-party financial applications broad access to sensitive customer financial data without sufficient oversight or accountability, raising concerns about fraud, privacy violations, and lack of control over how this data is used, especially if the third-party data aggregators have weak security practices.

CFPB Supervision (12 USC 5515)

- **Current threshold:** \$10b
- **Change to:** \$25b
- **How many banks might be impacted:** More than 80 banks between \$10b and \$25b.
- **Why this helps:** Would exclude more community banks from direct CFPB supervision, which is significantly more costly. This includes annual examinations and more frequent communication.

Risk-Based Capital (12 CFR 225)

- **Current threshold:** \$10b
- **Change to:** \$25b
- **How many banks might be impacted:** More than 80 banks between \$10b and \$25b.
- **Why this helps:** Would exempt “well capitalized” banks from mandatory and prescriptive risk-based capital requirements, including Basel III and its predecessors.

Corporate governance (independent auditing, financial reporting, internal controls) (12 USC 1831m(j))

- **Current threshold:** \$500m
- **Change to:** \$1b
- **How many banks might be impacted:** Approximately 675 banks between \$500m and \$1b
- **Why this helps:** Exempts banks from costly corporate governance controls, like external audits.

Flood insurance (12 CFR 339.5(c)(1))

- **Current threshold:** \$1b
- **Change to:** \$2b
- **How many banks might be impacted:** Approximately 360 banks between \$1b and \$2b
- **Why this helps:** Exclusion from costly and unnecessary flood insurance escrow requirements.

Small Bank Holding Company Policy Statement (12 U.S.C. 5371(b)(5))

- **Current threshold:** \$3b
- **Change to:** \$10b
- **How many banks might be impacted:** Approximately 145 between \$3b and \$6b
- **Why this helps:** This eases limitations on the issuance of debt for banks.

Stress tests (12 CFR 252.54)

- **Current threshold:** \$50b
- **Change to:** \$100b
- **How many banks might be impacted:** Approximately 15 between \$50b and \$100b
- **Why this helps:** Stress tests may require banks to retain too much capital, which can lead to under-provision of credit to the private sector.

Risk committees (12 CFR 252.22)

- **Current threshold:** \$50b
- **Change to:** \$100b
- **How many banks might be impacted:** Approximately 15 between \$50b and \$100b
- **Why this helps:** Banks must maintain a risk committee that approves and periodically reviews the risk-management policies, is geared toward large, interconnected banks. Increasing the threshold would exempt more banks from this requirement.

Volcker Rule (12 U.S.C. 1851)

- **Current threshold:** \$10b
- **Change to:** \$25b
- **How many banks might be impacted:** More than 80 banks between \$10b and \$25b.
- **Why this helps:** Allowing banking entities to invest in and sponsor venture capital funds.

Interlock Rule (12 CFR 212)

- **Current threshold:** \$10b
- **Change to:** \$25b
- **How many banks might be impacted:** More than 80 banks between \$10b and \$25b.
- **Why this helps:** Additional banks could share management officials, thereby enabling them to find better talent and expertise, which would help with succession troubles.

Consumer liability under Reg E (15 USC 1693)

- **Current threshold:** \$50 liability
- **Change to:** \$500 liability
- **How many banks might be impacted:** Approximately 4,500 banks (virtually all)
- **Why this helps:** Reg E consumer liability for unauthorized transactions was set more than 45 years ago. With the rampant rise of fraud, banks are increasingly on the hook for consumer negligence in taking reasonable steps to protect transaction accounts.

Reciprocal deposits (12 USC 371-3780)

- **Current threshold (limit) :** lesser of \$5 billion or 20 percent of the bank's total liabilities
- **Change to:** lesser of \$10 billion or 20 percent of the bank's total liabilities
- **How many banks might be impacted:** uncertain
- **Why this helps:** Certain reciprocal deposits are not considered brokered deposits, which allows banks greater balance sheet flexibility, reduce collateralization and tracking costs, and attract large-dollar deposits.

Loans to bank management (12 CFR 337.3)

- **Current threshold:** \$100,000 limit
- **Change to:** \$250,000 limit
- **How many banks might be impacted:** Approximately 4,500 banks (virtually all)
- **Why this helps:** Banks are limited to providing general credit to a bank executive officer that isn't a first mortgage on a primary residence, education loan or a loan secured with certain securities or accounts. This does not account for small business loans or lines of credit, which might be important for bank management or officials that provide important service in their community.