Testimony of

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On behalf of the

Independent Community Bankers of America

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"How Regulations Stifle Small Business Growth"

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Chairman Kim, Ranking Member Hern, and members of the subcommittee, my name is Christopher Jordan, and I am President and CEO of the Farmers State Bank, a $114 million asset community bank headquartered in Stigler, Oklahoma.

I testify today on behalf of the community banks represented by the Independent Community Bankers of America, with more than 52,000 locations nationwide. I am a former member of the Executive Committee of ICBA and remain active in the leadership of the association. Thank you for convening this hearing on "How Regulations Stifle Small Business Growth." With 40 employees, Farmers State Bank is a small business that, by creating access to credit, helps other small businesses to thrive. Regulatory burden on Farmers State Bank and other community banks harms us as well as the other small businesses we serve. The success of small businesses, including farms, in Oklahoma and across the country is vital to the prosperity of rural, urban, and suburban America. A favorable regulatory environment is a critical ingredient to this success.

Farmers State Bank was founded in 1908 and has been in my family since 1969. I am a third-generation community banker. Today, Farmers State Bank serves four rural communities in southeastern Oklahoma: Stigler, Quinton, Red Oak, and Eufaula. Our business model is fairly typical of a rural community bank, with a mix of small business, agricultural, and residential mortgage lending. We maintain a diverse portfolio because specializing in any one of these areas would be too risky. Like other community banks, we have thrived across generations by maintaining a simple capital structure, conservative lending practices, and being dedicated to the success of our communities.

Community Banks and Small Business Lending

Community banks are prodigious small business lenders. Though we hold 16 percent of U.S. banking industry assets, we hold a disproportionate market share of small business loans – 47 percent – supporting a sector responsible for more job creation than any other. We provide small business credit in good times as well as challenging times. Federal Reserve data shows that while overall small business lending contracted during the recession of 2008 and 2009, lending by a majority of small community banks (those of less than $250 million in assets) actually increased, and small business lending by banks with asset sizes between $250 million and $1 billion declined only slightly. By contrast, small business lending by the largest banks dropped off sharply. The viability of community banks is linked to the success of our small business customers in the communities we serve, and we don't walk away from them when the economy tightens.

The type of small business lending community banks do simply cannot be duplicated by a bank based outside the community. As noted in a comprehensive study by scholars at the Harvard Kennedy School, "In certain lending markets, the technologies larger institutions can deploy have not yet proven effective substitutes for the skills, knowledge, and interpersonal competencies of many traditional banks." [1]

Regulatory Overkill Poses a Grave Threat to the Community Bank-Small Business Partnership

The exponential growth of regulation in recent years is suffocating community banks' ability to serve their small business customers. Compliance has become a major distraction for community bank managers. In recent years, my job as a community banker has fundamentally shifted from lending

[1] "The State and Fate of Community Banking." Marshall Lux and Robert Greene. Mossavar-Rahmani Center for Business and Government at the Harvard Kennedy School. February 2015.

and serving customers to struggling to stay on top of ever-changing rules and guidance. This experience is typical of community bankers I talk to across the country. Every aspect of community banking is subject to new regulation.

Banks need more scale to accommodate the increasing expense of compliance which includes hiring, training, software, and other costs. I believe this increase in regulatory burden has contributed significantly to the decrease of 2,332 community banks in the U.S. since 2010. The number of banks with assets below $100 million shrunk by 52 percent, while the number of banks with assets between $100 million and $1 billion fell by 24 percent. A financial landscape with fewer, larger banks will reduce access to credit for small businesses.

ICBA's legislative and regulatory recommendations are contained in Community Focus 2020: The Community Bank Agenda for Expanding Economic Opportunity. A copy of Community Focus 2020 is attached to this statement.

In this statement, I will focus on four areas of Community Focus 2020 regulatory relief which I believe would provide the greatest impact in strengthening community banks so that they may better serve small businesses: Frist, modernization of the Bank Secrecy Act, including reporting of beneficial ownership information; second, eliminating small business data collection; third, reforming Securities and Exchange Commission (SEC) regulation that creates barriers to capital raising for community banks; and forth, a safe harbor for legal cannabis banking, which will protect even banks like mine that do not serve the cannabis industry. Regulatory reform in each of these areas would reduce the cost of regulatory compliance and allow community banks to redirect scarce financial and management resources to better serve our customers and communities.

Bank Secrecy Act Modernization

Community bankers are committed to supporting balanced, effective measures that will prevent terrorists from using the financial system to fund their operations and prevent money launderers from hiding the proceeds of criminal activities. However, Bank Secrecy Act/Anti-Money Laundering compliance has increasingly burdened community banks with identifying, investigating, policing, and reporting potential criminal activity.

However, because BSA/AML requirements become outdated, community banks increasingly doubt their effectiveness in combating financial crime. ICBA supports BSA/AML reforms that will ease compliance while providing more useful data to law enforcement.

Each year, Farmers State Bank must invest more time, money, and resources in BSA/AML compliance. My bank files an unusually large number of currency transaction reports (CTRs), which is perhaps true of other rural banks as well, though I have not seen data to confirm it.

Reporting thresholds are significantly outdated and capture far more transactions than originally intended. The currency transaction report (CTR) threshold was set in 1970 at $10,000 and has not be adjusted for inflation. A higher threshold would produce more targeted, useful information for law enforcement.

Suspicious activity reporting is the cornerstone of the BSA system and is a way for banks to provide leads to law enforcement. Unfortunately, in the current regulatory environment, community bankers have a strong incentive to protect themselves from examiner criticism and liability by over-filing of

Suspicious Activity Reports (SARs) as a defensive practice, which dilutes their value to law enforcement. Regardless of the degree of offense, community banks are required to follow the same SAR procedure for every suspicious transaction alert. This mechanical approach makes community bankers doubtful that SARs have real value for law enforcement.

Reforming the SAR process to a truly risk-based system with appropriate threshold increases would enable community banks to provide more targeted and valuable leads to law enforcement. Similar to the CTR thresholds, the SAR filing thresholds have not been adjusted since becoming effective in 1992.

ICBA calls for a CTR threshold of $30,000, significantly less than the threshold would be if it had kept pace with inflation, and a suspicious activity report (SAR) threshold of $10,000.

ICBA supports the Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform Act (H.R. 2514), sponsored by Representative Emanuel Cleaver. H.R. 2514 recognizes the outdated currency transaction report (CTR) thresholds and would begin to address the filing of CTRs by indexing this threshold to inflation with adjustments made in five-year increments.

While indexing this threshold to inflation is a welcome first step, ICBA believes immediate and more robust relief is needed. CTR filings are a primary source of community bank compliance burden and expense, diverting resources that could be better directed toward community lending. For this reason, we strongly support the Financial Reporting Modernization Act (H.R. 388), introduced by Representative Barry Loudermilk, which would raise the CTR and SAR thresholds to $30,000 and $10,000.

Customer Due Diligence Rule

On May 11, 2018, FinCEN's Customer Due Diligence Rule became effective. The purpose of the rule, which requires banks to collect information on the beneficial owners of legal entities that open accounts, is to create more transparency and thereby deter the abuse of anonymous legal entities for money laundering, corruption, fraud, terrorist financing and sanctions evasion.

We agree that such transparency is important. We strongly disagree that bank collection of beneficial ownership information is an effective means of creating this transparency. For banks, collection of beneficial ownership information for all legal entity customers is difficult to implement and an onerous and inefficient task for both the customer and the employee. Front-line bank staff is required to conduct several additional intermediate steps during the account-opening process to ensure they have a reasonable belief of the true identity of each beneficial owner. While the ownership interest and management responsibility of a business may be straightforward in certain cases and specified in a legal organizational document in other cases, certain legal structures make determining ownership equity extremely difficult, at best. Obtaining this information and assessing the risk requires a sophisticated understanding of various legal structures and ownership interests that is well beyond the training of a typical community bank loan officer.

For this reason, we support the Corporate Transparency Act (H.R. 2513), sponsored by Representative Carolyn Maloney, which would require corporations and limited liability companies to disclose their beneficial owners to the Financial Crimes Enforcement Network (FinCEN) at the time the company is formed. FinCEN collection of beneficial owner information, as opposed to its collection by banks, would provide uniformity and consistency across the United States. Making the

formation of an entity contingent on receiving beneficial owner information more directly would create a strong incentive for equity owners and investors to provide such information.

Furthermore, information regarding beneficial owners could be more easily shared between law enforcement and government agencies than between banks and law enforcement. Privacy laws do not permit banks to share personal information with a government agency absent a subpoena or similar directive. Information should be collected by the party that can make the most effective use of it to deter the criminal use of legal entities. This is the government.

H.R. 2513 passed the House Financial Services Committee on June 11 on a strong bipartisan vote. I encourage the members of this committee to support the bill when it comes to the House floor.

Cutting the Red Tape in Small Business Lending: Eliminate Data Collection

Community banks are strongly concerned by a forthcoming rule that should be of particular interest to this committee because it is directly related to small business lending. Under a Section 1071 of the Dodd Frank Act, which has yet to be implemented, whenever a business seeks credit at a financial institution, the institution must inquire whether the business is women-owned, minority-owned, or a small business. The financial institution must maintain a record of the response to the inquiry together with additional information such as the census tract of the business and its gross annual revenues, whether or not a loan is subsequently approved. These records must be compiled and submitted annually to the CFPB, which will make the data available to any member of the public upon request. In addition, the records must be kept separate from the credit application and accompanying information and shielded from access by the underwriters or anyone involved in making credit determinations. In other words, the requirement creates a separate bureaucracy within the financial institution that cannot be integrated with lending operations.

I appreciate and sympathize with the motivation behind the new requirement. Lending discrimination, which is illegal under fair lending laws, must not be tolerated. But this new data collection requirement is especially inefficient and may not be feasible in certain cases such as in organizations that are too small to accommodate fire wall structures. Community banks will be disproportionately burdened by this requirement because they concentrate more on small business lending than other financial institutions. Further, data collected by community banks and subsequently made public by the CFPB could compromise the privacy of applicants in small communities where an applicant's identity may be easily deduced, despite the suppression of personally identifying information. For these reasons, ICBA believes community banks should be excluded from new small business data collection requirements.

Regulatory Barriers to Capital Access

Finally, ICBA supports regulatory relief measures that would improve capital access for community banks so that they have more capital to deploy in community lending. In particular, SEC regulations deter community banks from raising capital by going public or remaining public. ICBA supports relief for community banks under $5 billion in asset size from the internal control attestation requirements of Section 404(b) of the Sarbanes-Oxley Act. Under current law, only companies with market capitalization of less than $75 million are exempt from Section 404(b).

In addition, ICBA support relief for community banks with assets of less than $5 billion from a requirement under the FDIC Improvement Act (FDICIA) that they submit an annual report containing management assessment of the bank's internal controls, an external auditor's attestation, and audited financial statements, among other items. Under current law, institutions with assets of less than $1 billion are exempt from the FDICIA requirement.

For community banks, the external audit requirement is redundant because their internal control systems are monitored continually by bank examiners. This threshold increase would account for recent industry consolidation which has resulted in fewer, larger banks. Almost 90 percent of banking assets would remain subject to the FDICIA reporting requirements. When FDICIA was first adopted in 1993, only 75 percent of banking assets were subject to its reporting requirements.

With regard to banks such as mine that remain privately held, ICBA recommends reforming SEC Regulation D, which governs private sales of unregistered securities, to broaden the definition of "accredited investors" who may purchase such securities to include the value of investors' primary residence in determining whether they meet the $1 million net worth threshold. Current Regulation D requires exclusion of the value of an investor's primary residence. The accredited investor net worth definition has not kept pace with inflation. In addition, we recommend that up to 70 non-accredited investors be permitted to purchase the unregistered securities of a private company. Current law limits the number of non-accredited investors to 35. Transactions under Regulation D would remain subject to antifraud, civil liability, or other provisions of the federal securities laws.

Safe Harbor for Legal Cannabis Banking

ICBA and I support the Secure and Fair Enforcement Banking Act of 2019 (SAFE Banking Act, H.R. 1595), bipartisan legislation introduced by Representatives Ed Perlmutter, Denny Heck, Steve Stivers, and Warren Davidson to create a safe harbor from federal sanctions for financial institutions that serve cannabis-related businesses (CRBs) in states and other jurisdictions where cannabis is legal.

While cannabis remains illegal at the federal level, an increased number of states have legalized it for medical and/or recreational use. As you know, Oklahoma has legalized cannabis for medical use. To date, Farmers State Bank does not have any relationships with CRBs nor do we have plans to initiate any. However, as these businesses continue to mature they require access to the traditional banking system, the conflict between state and federal law has created increasingly significant legal and compliance concerns for banks that wish to provide banking services to CRBs in jurisdictions where it is currently legal. Legal and regulatory uncertainty has curtailed access to the traditional banking system for CRBs and forced them to operate mostly in cash. Cash-only businesses, especially those with a high volume of revenue, pose a significant risk to public safety.

ICBA does not advocate for legalization of cannabis at the federal level or otherwise, but we do support the creation of an effective safe harbor from federal sanctions for banks that choose to serve CRBs in states and jurisdictions where these businesses are legal. The SAFE Banking Act would create such a safe harbor by providing that in jurisdictions where cannabis is legal federal banking regulators may not threaten or limit a bank's deposit insurance, downgrade a loan, prohibit or discourage the provision of banking services, or take any other prejudicial action solely because a bank customer is a CRB.

Importantly, this safe harbor would extend to banks that serve the many ancillary businesses that serve CRBs such as landlords, accountants, utilities providers, and others that may be paid in funds ultimately derived from cannabis sales. These ancillary businesses may be difficult to identify in states that have legalized cannabis, and potentially create a legal and regulatory trap for even those banks that choose not to serve CRBs directly.

H.R. 1595 passed the House Financial Services Committee on March 28 on a strong bipartisan vote. I encourage the members of this subcommittee to support this important bill when it is considered on the House floor.

Closing

Thank you again for the opportunity to testify today. ICBA hopes this testimony, while not exhaustive, gives this subcommittee a sense of the sharply increasing resource demands placed on community banks by regulation and the destructive impact they have on small business lending. ICBA hopes to work with this subcommittee to craft urgently needed legislative solutions.

ATTACHMENTS

- **ICBA's Community Focus 2020**

COMMUNITY FOCUS 2020:

The Community Bank Agenda for Expanding Economic Opportunity

2019 Legislative Agenda

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Community Focus 2020:

The Community Bank Agenda for Expanding Economic Opportunity

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

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

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

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

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

Regulatory Relief

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

Modernizing the Bank Secrecy Act

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

Customer Due Diligence Rule

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

Strengthening Accountability in Bank Exams: A Workable Appeals Process

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

Relief from Internal Control Mandates

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

Facilitate New Capital Investment Through Private Offerings

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

Banking Services for Legal Cannabis-Related Businesses

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

A Competitive Landscape for a Dynamic Economy

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

No Regulatory Subsidy for Fintech

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

ILC Loophole Promotes Corporate Consolidation and Threatens the Federal Safety Net

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

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

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

Farm Credit System Crowding Out Rural Community Bank Lending

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

Data Security, Fraud and Privacy

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

Strengthen Weakest Links

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

Uniform Breach Notification Will Mitigate Losses

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

Align Incentives to Better Secure Data

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

Privacy

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

Preserve Liquidity for Robust Community Bank Mortgage Lending

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

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

ICBA Supports Reform

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

Earnings Sweeps Jeopardize GSE Capital

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

Preserve Community Bank Access

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

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

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

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

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

Community Bank Tax Relief

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

Preserve Competitive Corporate Rate

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

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

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

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

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

Modernize Subchapter S Constraints

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

Estate Tax Repeal

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

Tax Credit for Bank Secrecy Act Compliance Costs

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

Industry Concentration and Systemic Risk

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

Enhanced Prudential Standards for the Largest Banks

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

National Deposit Cap Must Be Strengthened

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

Agriculture and Rural America

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

Crop Insurance and Lending Limits

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

Agricultural Loan Concentration Limits

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

Tax Relief for Rural Lending

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

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