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May 14, 2024

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

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Re: May 16th Markup Legislation

Dear Chairman McHenry and Ranking Member Waters:

On behalf of ICBA and the nearly 50,000 community bank locations we represent, I write to thank you for scheduling a markup on May 16th which will include numerous, long-standing ICBA-supported bills. We are grateful to you for taking up these community bank priorities. **ICBA urges all committee members to vote YES on the following bills:**

The Promoting Access to Capital in Underbanked Communities Act of 2023 (H.R. 758, Rep. Andy Barr).

This bill would promote the creation of de novo community banks, especially in America's rural areas. Rural America in particular has been adversely impacted by the rapid consolidation of financial institutions over the past decade, which has reduced the number of access points to credit and other financial services for rural farmers, small businesses and consumers.

H.R. 758 would provide more regulatory, capital and lending flexibility to facilitate the creation of de novo banks, encourage investment in these banks and promote their viability. Excessive regulation is a burden for all community banks, but it presents a special challenge for de novos that must dedicate their resources to establishing a foothold in their market and achieving viability. H.R. 758 will promote more competition in rural markets for financial services, expand access to credit, and support the economic vitality of rural America.

The CDFI Fund Transparency Act (H.R. 3161, Reps. John Rose and Brittany Pettersen)

H.R. 3161 would require the Secretary of Treasury (or a designee of the Secretary) to testify before the House Financial Services Committee and Senate Banking Committee on an annual basis regarding the operations of the Fund during the previous year. H.R. 3161 provides needed oversight and transparency to the Fund, which together with CDFIs, play a critical role in deploying capital to underserved areas.

The Bank Resilience and Regulatory Improvement Act (H.R. 8337, Rep. Andy Barr)

This bill contains a number of ICBA-supported provisions, including:

- **The Financial Institution Regulatory Tailoring Enhancement Act (H.R. 6398, Rep. Andy Barr).** H.R. 6398 would raise the asset exemption thresholds of five burdensome regulatory provisions: Consumer Financial Protection Bureau supervision; the “Dubin Amendment” capping debit interchange; the Volcker Rule, which restricts the investment authority of insured financial institutions; the qualified mortgage (QM) rule which mandates a burdensome ability-to-repay analysis to obtain a safe harbor from litigation risk; and leverage and risk-based capital rules.

ICBA has long advocated for tailored or tiered regulation of the banking industry, which will relieve lower-risk community banks of unnecessary or even misguided regulatory requirements. H.R. 6398 would increase the asset thresholds of the provisions named above from \$10 billion to \$50 billion, thereby modernizing thresholds to account for industry growth and consolidation and promoting economic growth.

- **Bank Supervision Appeals Improvement Act (H.R. 8264, Rep. Andy Barr).** This bill would create a workable appeals process and give financial institutions a right to an expedited, independent review of an adverse examination determination. The current system, which grants examiners almost unfettered, unassailable authority, must be reformed with the introduction of checks and balances.
- **Small Bank Holding Company Relief Act of 2023 (H.R. 4346, Rep. Alex Mooney).** ICBA strongly supports H.R. 4346, which will provide sensible regulatory relief to community banks to help them continue to serve their customers and communities. Raising the consolidated asset threshold to qualify as Small Bank Holding Companies from \$3 billion to \$10 billion will make it easier for small bank and thrift holding companies to raise additional capital, promoting lending and economic growth in local communities while preserving safety and soundness.

The Clarity in Lending Act (H.R. 8338, Rep. Young Kim)

ICBA supports the follow provisions of H.R. 8338:

- **The Rectifying UDAAP Act (H.R. 6789, Rep. Andy Barr).** The Rectifying UDAAP Act would bring much needed clarity and balance to the application of the Consumer Financial Protection Bureau’s UDAAP authority under the Dodd Frank Act. The Bureau has repeatedly exceeded its statutory authority under UDAAP and thereby threatened continued safe and secure access to the products and services on which American consumers depend. The Bureau must act with accountability and respect for the limits of its statutory authority. H.R. 6789 would promote such accountability by requiring clear descriptions of acts or practices that are “abusive”; establishing policies and procedures for the imposition of civil penalties, including mitigating factors; mandating cost-benefit analysis of any final rule under UDAAP; and clarifying that the Bureau may not interpret its authority under UDAAP to include discriminatory practices, among other requirements.
- **The Small Lenders Exempt from New Data and Excessive Reporting Act (H.R. 1806, Rep. French Hill)** This bill focuses on the implementation period for Section 1071 and the loan-volume threshold at which financial institutions would be required to collect and report small business lending data. One of ICBA’s primary objections to the NPRM is that it would exempt too few community banks and the small businesses they serve. A longer implementation period will allow community banks to hone and test the systems and procedures used to collect and report data and thereby improve its accuracy. The bill would:
 - Define a “financial institution” as one that originates at least 500 covered credit transactions for

- small businesses in each of the two preceding calendar years.
 - Define a “small business” as one with gross annual revenues of \$1 million or less in the most recently completed fiscal year.
 - Extend the effective compliance date with the final rule to three years after publication in the Federal Register plus a 2-year grace period.
- **The Bank Loan Privacy Act (H.R. 1810, Rep. Blaine Luetkemeyer).** Rep. Luetkemeyer’s bill would require the CFPB to conduct a rulemaking with an opportunity for public comment on proposed modifications and deletions to data the Bureau will publish. The purpose of the proposed modifications or deletions would be to protect the privacy of credit applicants. Financial institutions as well as small business credit applicants should have a voice in this important determination and should understand what data will be made public before it is collected.

Thank you for your consideration. We look forward to working with this committee to advance these important bills.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the House Committee on Financial Services