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March 7, 2022

The Honorable Jesús G. (“Chuy”) García
United States House of Representatives
Washington, D.C. 20515

The Honorable Lance Gooden
United States House of Representatives
Washington, D.C. 20515

Dear Representatives García and Gooden:

On behalf of community banks across the country, with more than 50,000 locations, I write to thank you for introducing the Close the ILC Loophole Act of 2021 (H.R. 5912), which would address the risks to the banking system and consumers posed by the gap in safety and soundness oversight of industrial loan companies (ILCs) by closing the “industrial loan company loophole.” ICBA and community banks strongly support H.R. 5912 and urge Members of the House to cosponsor this important legislation.

The industrial loan company loophole allows commercial companies to own ILCs, which are the functional equivalent of banks, and effectively mix banking and commerce, contrary to longstanding U.S. economic policy. After a hiatus of 10 years following enactment of the Dodd-Frank Act, the Federal Deposit Insurance Corporation (FDIC) approved ILC deposit insurance applications from Square Financial Services, Inc. and Nelnet Bank. Applications from GM Financial and Rakuten Bank America remain pending. These new ILCs and applicants have holding companies and affiliates that engage in diverse, non-financial, commercial activities and chose the unique Utah ILC charter to avoid the legal prohibitions and restrictions on commercial activities under the Bank Holding Company Act.

We can expect more big technology companies to exploit the ILC loophole to obtain even greater reach into the economic lives of Americans. This would shift the American financial landscape and give rise to a whole new dimension of risk, a threat not only to our prosperity and economic diversity but to consumer privacy. Too-big-to-manage would take on a whole new meaning. What’s more, commercial owners of ILCs, unlike bank holding companies, are not subject to consolidated supervision. This constitutes a dangerous gap in financial safety and soundness oversight.

H.R. 5912 would amend the Bank Holding Company Act to close the ILC loophole prospectively. Commercial companies that already own ILCs would generally be grandfathered and required to register as Covered Industrial Loan Companies. Thank you for introducing H.R. 5912. ICBA looks forward to working with you to advance this important legislation.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the House Financial Services Committee

The Nation’s Voice for Community Banks.®

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