



Testimony of

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On behalf of the

Independent Community Bankers of America

Before the

U.S. House of Representatives

Committee on Small Business

Hearing on

“Hope on the Horizon: Prioritizing Small Business Growth in the 119th Congress”

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Washington, D.C.

Opening

Chairman Williams, Ranking Member Velázquez, and members of the Committee, I am Alice P. Frazier, President and CEO of the Bank of Charles Town, headquartered in Charles Town, West Virginia. I currently serve as Vice Chairman of the Independent Community Bankers of America and testify today on behalf of that association and thousands of community banks across the country. Thank you for convening today's hearing on "Hope on the Horizon: Prioritizing Small Business Growth in the 119th Congress." This hearing is well timed for the beginning of the new Congress and Administration, which I can assure you has brought new hope to the communities I serve. The optimism is palpable.

Our Story

The Bank of Charles Town, or BCT, was founded in 1871 in Jefferson County, West Virginia by a group of 38 farmers, orchardists, and business leaders who believed a locally based bank would create an economic and stabilizing influence in Jefferson County. Thousands of community banks around the country were founded on that same vision. Today, BCT is a \$877 million asset community bank with 135 employees serving the Eastern Panhandle of West Virginia as well as Hagerstown, Maryland and Loudoun County, Virginia.

Our small business portfolio contains 808 loans, totaling \$434.9 million, or 89 percent of our portfolio. Our small business focus is typical of a community bank. In aggregate, community banks are responsible for a disproportionate number of small business loans, especially in smaller markets.

BCT has been an SBA lender for over 40 years. We share with this committee a commitment to preserving and protecting the integrity of SBA guaranteed loan program and continue to make prudent loans to smaller and underserved businesses.

In addition, BCT is itself a small business, under the SBA's definition, as are thousands of community banks. Many of these are family-owned small businesses, just like the coffee shop on the corner of Main Street. Nearly 1,500 community banks are Subchapter S. It is not helpful to group banks of all sizes together when crafting public policy.

Small Business Optimism

The phones are ringing again, with small businesses in my footprint eager to expand and hire with the help of community bank credit. I hear the same from the many community bankers from across the country I talk to in my role at ICBA. Below is a recent example.

A restaurant-supply company client came to us for help with financing growth that has occurred in recent months as existing restaurants are upgrading their bar areas, and new restaurants are opening. The six-year-old company, first conceived as a college business school project, has boot strapped its business since inception and, in 2024, has grown revenues to \$4 million without the use of debt. A typical project for this company has grown from a \$25,000 to \$50,000 upgrade to a \$300,000 to \$500,000 upgrade today. We are working on a line of credit to finance this strong growth based on a surge of business

optimism. I talked with this client just last week, and he like others is decidedly more upbeat about the future.

Community banks stand ready to meet small-business loan demand with the customized products and personalized services that can only be provided by locally based, on-the-ground community banks. We specialize in relationship lending based on first-hand knowledge of the customers, communities, and local economic conditions that are invisible to those outside the community. This is what sets us apart from larger, out-of-market lenders.

The Small Business Administration, with the oversight of this committee, plays an important role in allowing community banks such as mine to lend to borrowers that do not yet qualify for conventional credit. They may only need a dedicated partner who can provide business counseling based on decades of experience – a service we are proud to offer – to shore up their credit standing

My bank's 7(a) loan portfolio is \$56 million, or approximately 12 percent of our total commercial portfolio. Both types of credit are critical to the success of the local economies we serve. We expect that former Senator Kelly Loeffler, whose nomination as SBA Administrator we fully support, will understand the agency's mission and, above all, create needed stability in the products and services it offers. SBA lenders and borrowers must be confident that program rules will not change midstream so that they can focus on succeeding in business and providing stable employment.

SBA programs such as 7(a), 504, and others are examples of a successful public-private partnership in support of small business. While conventional bank credit should always be the first choice, SBA-guaranteed bank lending is effectively a "lender of last resort" for those small businesses that are not yet ready to qualify for conventional credit. Fully funded by loan fees, it comes at zero cost to the taxpayer.

Nonbank Fintech Lending is no Substitute for Community Bank Lending

The community bank model is distinct from that of other lenders. We live and work in the communities we serve and stand by our customers in good times and bad. We partner with our small business borrowers and are vested in their long-term growth and success. The reality is that once the loan is funded the relationship is only just beginning. We provide practical, real world business counseling and networking opportunities, particularly for startups, in a way that can never be matched by an online-only lender.

As this committee considers ways of deploying credit to small businesses, I would like to clarify that online-only lending can never be a substitute for on-the-ground community bank lending. The business model of a nonbank fintech – snap approval or rejection of loan and quick disbursement of funds – is often not in the borrower's best interest. Small businesses need more than quick credit decisions. They need bankers focused on their best interest.

Regulatory Horizon

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.

While we are ready to lend today to all qualified borrowers, our capacity could be yet further enhanced by regulatory and tax relief that would allow us to direct more resources toward helping our customers. The market optimism I have noted stems from an expectation of new policies that will spur economic growth and job creation. We look forward to working with this committee to deliver on that expectation.

ICBA has developed a broad legislative agenda for the new Congress, “**Transforming Regulation for Growth: The Community Bank Legislative Agenda**,” which has been endorsed by all 44 of our affiliate state associations. We believe that our recommendations, if enacted, will reinvigorate America’s community banks in the service of their customers and communities. Our agenda is attached to this testimony.

I will focus this statement on the proposals from our agenda that are most relevant to this hearing.

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.

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 Chairman Williams for sponsoring in the last Congress legislation under the Congressional Review Act to repeal the 1071 rule. Many of you supported that legislation, which passed the House and Senate with bipartisan support but was unfortunately vetoed by President Biden.

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, Chairman Williams introduced the “1071 Repeal to Support Small Business Lending Act.” Statutory repeal of mandated data collection, embodied in this legislation, is the best solution. ICBA thanks the Chairman for his straightforward approach, and we ask for the committee’s support for this bill.

Regulatory Thresholds Must Be Updated

Looking beyond 1071, there is a host of existing regulation from which community banks should be exempt or otherwise accommodated.

Inefficient and prescriptive regulations continue to encumber community bank small business 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 for, and indeed destructive to, community banks.

I urge this committee to support a thorough review of existing 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 small business lending without rewriting statutes. Updated thresholds should reflect the growth in average asset size of community banks over the decades as the industry consolidates.

Preserve and Expand a Pro-Growth Tax Environment

Small businesses and households prosper under pro-growth tax policies. Expiring provisions of the Tax Cuts and Jobs Act should be permanently extended to provide long-term certainty for business planning.

Among the threats facing small businesses 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 for pass-through businesses, such as those organized under Subchapter S of the tax code, which include the vast majority of all small businesses. The loss of this deduction would amount to a punitive and destructive tax increase and, together with the loss of full expensing, a disincentive for business investment in equipment. 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.

199A is just one of a host of expiring tax provisions that are critical to small business. Others include:

- The structure of individual rates and brackets that allows Americans to keep more of their hard-earned dollars.
- An estate tax exemption that does not force sales of family-owned businesses.
- Full expensing for equipment purchases.
- The full deductibility of business interest.

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.

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

New Sources of Community Bank Capital Needed to Support Small Business Lending

Ready sources of capital are critical to community bank small business lending. The public capital markets are currently unavailable or unattractive to many community banks. They have to rely on existing shareholders, directors and insiders for capital raises and less on new investors.

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 recommends changes to Subchapter S that would facilitate capital raising. Under current law, a Subchapter S bank may have no more than 100 shareholders. Increasing the shareholder limit 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 small business lending.

In addition, individual retirement accounts (IRAs) are not permitted to purchase or hold shares in Subchapter S companies. I know many bankers who would like to use their personal IRAs to inject capital into their banks and solicit capital from IRAs held by others.

Further, Subchapter S banks should be allowed to issue preferred shares, which they currently are not. Preferred shares allow a bank or other business 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 to tax code Subchapter S would strengthen banks in the service of their small business customers.

Need for More Bank Charters to Offset Community Bank Consolidation

The banking industry has consolidated rapidly since the financial crisis of 2009, driven in large part by increasing regulatory compliance costs. The cost of complying with the complexity and volume of new regulation is a strong disincentive for de novo bank charters.

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 small business credit.

This country needs more de novo charters to offset the impact of consolidation. 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.

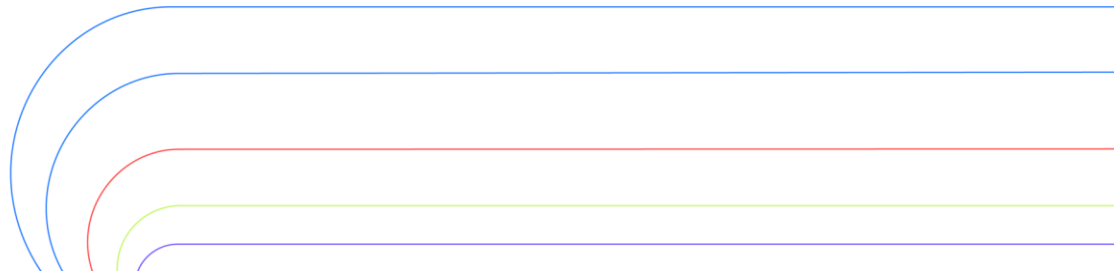
ICBA thanks Representative Andy Barr for reintroducing the Promoting New Bank Formation Act (H.R. 478), which would promote the creation of de novo community banks, especially in America's rural areas. H.R. 478 would provide more regulatory, capital and lending flexibility for newly chartered banks,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

Conclusion

Thank you again for the opportunity to offer my perspective. Together, we can justify the wide-spread optimism in the small business community.

I'm happy to answer any questions you may have.

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 FCS 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.