

January 19, 2011

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

Your regulatory relief initiative announced yesterday was received with hope and appreciation by the banking industry, whose member banks of all types, sizes, and geographies make up the American Bankers Association. This kind of Presidential leadership and direction to all elements of the executive branch, followed by a timely response from the relevant federal agencies, will be essential if we are to save the community banking system in America and strengthen its role in promoting economic recovery and growth. Without quick and bold action to relieve regulatory burden we will witness an appalling contraction of the banking industry, with a thousand banks or more disappearing from communities all across the nation over the next few years. These are good banks that for decades have been contributing to the economic growth and vitality of their towns, cities, and counties but whose financial condition is being undermined by excessive regulation. Each bank that disappears from the community makes that community poorer.

The essential contribution of banks to the economy is the ability to bring savers and borrowers together and to put financial resources to work. Through the multiplying power of banking, each dollar in bank capital is able to infuse several dollars in economic activity into the community. Unfortunately, banks have been put in a regulatory straitjacket that is being made increasingly tighter, restricting the ability of banks to lend to good customers or to devote their resources to lending and financial services. Instead, too many bank resources are being sidelined into regulatory compliance activities. Businesses, especially small businesses, with good ideas and opportunities to grow are finding it hard to get the funding that they need to buy their new equipment, to expand their facilities, to purchase new inventory, and to put more people to work. Most new economic activity is like planting seed corn, in the expectation of future return, and it needs credit to get started. Excessive regulation is restricting the ability of banks to provide that credit.

All banks and their services to their customers are hurt by overregulation. But while all banks are harmed, community banks are often the most vulnerable to regulatory costs. Let me share with you a few statistics that help paint the picture. The median-sized bank in the United States has about \$154 million in loans and other assets in the community, 37 employees, and is forced to comply with 1,700 pages of *consumer regulations*, not counting hundreds of pages of other regulations governing how banks make loans, to whom, under what conditions, how they set up reserves for the loans, and so forth. That does not include any regulations written pursuant to the Dodd-Frank Act.

Each regulation must add value. Added value in the case of bank regulation means improving the ability of banks to serve their customers. Any regulation that makes it harder to serve customers should be put on the list of rules to be changed or eliminated. It is time that we compiled that list and took action. That is why your initiative is so important and so welcome.

We are eager to assist. In response we will write to each appropriate federal agency and department—both those directly covered by your directive as well as to other, independent agencies that are no doubt sympathetic to your initiative—with suggestions for relieving unnecessary and harmful regulatory burdens. We will identify specific regulatory problems that are harming the ability of banks to promote job creation and economic growth, and we will offer specific solutions. We will continue to offer additional input as we identify other problem regulations and develop effective solutions.

Here are a few examples of regulatory burdens that we know are making it harder to promote new jobs and economic growth, together with our proposals to reduce the burdens.

Relieve the Demands for Ever Higher Capital Ratios. The financial resources of a bank begin with a healthy capital position. The banking industry entered the recession well capitalized, and the industry is even better capitalized today. Unfortunately, increasing demands for higher regulatory capital ratios are constricting the ability of banks to translate that strong capital into more lending. Whereas the rule of thumb had been that \$10 of bank capital could support about \$100 of lending, new capital mandates mean that the same \$10 of capital can be used to support little more \$80 of lending. Not only can banks support fewer loans with their capital, but the return on capital is reduced, eroding the willingness of investors to provide banks with more capital. The banking industry becomes smaller while loans become more expensive and harder to get. Relieving the increasing regulatory demand for higher bank capital will ease the way for higher lending.

Stop Confusing Mortgage Borrowers and Lenders. The pace and poor coordination of rulemakings on mortgage lending are driving up costs, increasing borrower and lender confusion, and ultimately making it harder to provide mortgage loans to qualified borrowers, further harming recovery in the housing sector. It is hard to imagine full economic recovery without recovery in the housing sector. ABA has repeatedly urged greater coordination of regulatory changes, both for changes mandated by the Dodd-Frank Act as well proposed changes under other laws. We continue to urge that priority be given to the integration of consumer disclosures under the Real Estate Settlements Procedures Act (RESPA) and the Truth in Lending Act (TILA) and their replacement with disclosures that borrowers understand of information that they really want to know. Additional regulatory changes not mandated by law should be delayed or curtailed until the RESPA/TILA integration is completed and the housing markets have fully recovered.

Refund Excessive FDIC Premiums. The FDIC gets all of its funding from the banking industry, and the banking industry is committed to keeping the FDIC adequately funded. But parking excess moneys at the FDIC takes financial resources directly out of the communities. Fortunately, bank failures and failure costs in 2010 were far below FDIC estimates, and that

trend is continuing into 2011. The FDIC required banks to pay three years of premiums in advance, based upon assumptions that turned out to be overly pessimistic. Using FDIC's numbers, we conclude that the FDIC has over reserved for losses by \$10 billion or more. The FDIC should update its reserves for losses and return to banks at least \$10 billion in advance premiums that it does not need. Banks could then put those funds to work in new lending and financial services in their communities

Update SEC Registration Threshold. Under current regulations of the Securities and Exchange Commission (SEC), whenever a bank has 500 or more shareholders it has to register with the SEC and become subject to a hefty and expensive SEC supervisory program, on top of its supervision by bank regulators. Many community banks that are approaching that threshold are intentionally refraining from seeking new investors in order to avoid the new burdens that come with SEC registration. That 500-shareholder threshold has not been updated since 1964, despite the fact that in the intervening 45 years the stock market and the size of the investing public have expanded dramatically. The SEC registration threshold needs to be updated proportionately to the market growth to between 1500 and 3000 shareholders, in turn freeing up community banks to seek new investors without also inviting major new SEC regulatory burdens. Each new dollar of investment can then be used to fund 8 or 9 dollars in new lending in the community.

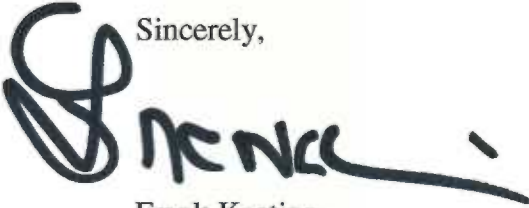
Provide More Flexibility on Commercial Real Estate (CRE) Lending. Very appropriately the banking regulators promulgated guidance to banks to avoid excessive concentrations in commercial real estate loans. Also very appropriately, that guidance included flexibility that took into account a bank's practices in managing the risks of its CRE portfolio. As the recession progressed, that regulatory flexibility has calcified, and measures that were intended as guidelines for evaluating concentration have too often been turned into hard caps restricting new commercial real estate loans. Many new businesses, seeking funding for expansion, have little more than their real estate assets to pledge as collateral. But when they do so, bank examiners may define that loan as CRE lending and criticize a bank for making that loan. Bank examiners need to restore and use the flexibility built into the CRE guidance and allow banks to provide CRE loans to good borrowers.

Stop Price Controls on Debit Card Interchange. Banks rely upon non-interest income to smooth out the ups and downs of the lending business cycle and to provide a variety of other important financial services to their customers, low-cost checking accounts being just one example. One of the most important sources of non-interest income for community banks in particular has been the interchange fees earned for debit card transactions. An amendment added to the Dodd-Frank Act, not part of the Administration's proposal, requires the Federal Reserve Board to control by regulation the prices that can be charged for these fees. While the provision ostensibly exempts community banks, it is clear that the markets will not long tolerate paying higher interchange fees to community banks than the levels set by the Federal Reserve. This rule must be stopped so that markets can continue to set interchange rates, especially before the price controls cut into the earnings of community banks and undermine the viability of many of their financial services to their customers. In the meantime, the Federal Reserve needs to include in its

price control calculations the cost of all of the elements that operate to make debit interchange services available to customers.

Thank you for launching this effort and putting the prestige of your office behind it. The banking industry and the individuals, families, and businesses who are our customers need this effort to be successful.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Keating', with a large, stylized initial 'F' on the left.

Frank Keating