

Date: January 16, 2018

To: Members of the House Financial Services Committee

From: James Ballentine, Executive Vice President, Congressional Relations & Political Affairs

Re: ABA's views on January 17, 2018 Committee Markup

On behalf of the members of the American Bankers Association (ABA), I am writing to express our views on several measures slated for consideration before the House Financial Services Committee on January 17, 2018. ABA applauds the Committee for your continued efforts to advance legislation that will help banks serve their customers and communities.

**H.R. 1264, Community Financial Institution Exemption Act.** This legislation, and the proposed amendment, introduced by Representative Roger Williams would exempt insured depository institutions with less than \$50 billion in consolidated assets from all rules and regulations issued by the Consumer Financial Protection Bureau (CFPB), moving forward. The amendment is effective for rules issued after the date of enactment and would authorize the Bureau to modify prior rules, if the effect would be to reduce regulatory burdens. We commend Rep. Williams for his steadfast efforts to ease the burden on community financial institutions. This legislation could be improved by replacing the asset threshold with a more tailored, risk based test, and with the addition of language that would ease the bureau's direct supervision of community banks exempted by this legislation. ABA looks forward to continuing to work with Rep. Williams and the committee on this issue as the bill moves through the legislative process.

**H.R. 1426, Federal Savings Association Charter Flexibility Act of 2017.** This bipartisan legislation introduced by Representatives Keith Rothfus and Jim Himes would provide greater flexibility to institutions chartered under the Home Owners' Loan Act (HOLA). The legislation is the epitome of sensible regulatory relief. It will allow mutual and stock savings associations chartered under the Home Owners Loan Act to better serve the small business and commercial lending needs of their communities, without having to go through lengthy and costly charter conversions.

The legislation will allow a federal savings association to elect to function as, and be regulated like, a national bank without having to change charters or governance structure. The Office of the Comptroller of the Currency (OCC) regulates both national banks chartered under the National Bank Act and federal thrifts chartered under the HOLA, and thus has expertise in regulating both types of institutions.

ABA has long championed greater flexibility for HOLA chartered institutions to adapt their business models to changing demographics and changing needs in their communities. Federal

saving associations have a long, proud history of being responsive to their communities' needs, and this legislation will help them to enhance and continue that record. *ABA supports H.R. 1426.*

**H.R. 2226, Portfolio Lending and Mortgage Access Act.** This legislation long championed by Representative Andy Barr would provide that loans originated by insured depository institutions and held in portfolio are treated as Qualified Mortgages under the Truth in Lending Act.

Portfolio lending is among the most traditional and lowest risk lending in which a bank can engage. Loans held in portfolio are well underwritten and conservative by their very nature. They must be for the safety and soundness of the bank. If a loan is to be held in a bank's portfolio, the bank carries all of the credit and interest rate risk of that loan until it is repaid.

Existing mortgage rules, especially those governing Ability to Repay and Qualified Mortgage status under the Truth in Lending Act are very restrictive and have made it difficult and in some cases impossible for banks to make these otherwise safe and sound loans to creditworthy borrowers. The CFPB has recognized this, and attempted to address the constriction in credit caused by these rules by expanding small, rural and underserved exemptions. We appreciate the CFPB's work on this, but more relief is needed, not just in rural and underserved areas served by smaller institutions.

Borrowers in all parts of the nation should be able to get safe, sound and well underwritten loans. Loans held in portfolio by an insured depository institution are such loans. Further hurdles to meet Ability to Repay and Qualified Mortgage status – and the liability imposed on loans not meeting that status – only serve to keep creditworthy borrowers from getting much needed mortgage credit. H.R. 2226 recognizes this problem and provides a simple solution.

While ABA strongly believes that any institution should be able to receive the safe harbor offered in this legislation, an amendment by Rep. Barr to provide this safe harbor to institutions below \$10 billion is consistent with proposals supported by a bipartisan group of House and Senate members. We hope that this proposal becomes law and the safe harbor will be further examined and extended to additional federally regulated financial institutions. *ABA supports H.R. 2226.*

**H.R. 4607, Comprehensive Regulatory Review Act.** This bipartisan legislation, introduced by Representatives Barry Loudermilk and Josh Gottheimer, would provide much needed improvements to the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA).

The EGRPRA process has merit. It is a process that allows the prudential banking regulators to review their regulatory processes once every ten years and produce a report to Congress. ABA supports the intent and purpose of this law and has strongly encouraged regulators to use the EGRPRA review process to find ways to provide meaningful regulatory reforms that will allow banks to better serve consumers.

This legislation will substantially improve the EGRPRA law by requiring a review to be conducted every seven years, rather than ten years; it will expand the review to regulated institutions, not just insured depository institutions; will add the Consumer Financial Protection Bureau to the list of prudential regulators that participate in the EGRPRA process, and

importantly, the bill empowers the regulators to take action to eliminate or tailor regulations that they identify as duplicative, outdated, or unnecessary.

We applaud the authors for offering legislation that updates the EGRPRA process while keeping the tenets of this important act intact. *ABA supports H.R. 4607.*

**H.R. 4725, Community Bank Reporting Relief Act.** This legislation, introduced by Representative Randy Hultgren, would streamline bank reporting by directing federal banking agencies to issue regulations that allow for reduced reporting requirements when making the first and third quarter reports each year. This is commonsense regulatory burden reduction legislation that mirrors proposals put forth by federal banking regulators. *ABA supports H.R. 4725.*

**H.R. 4771, Small Bank Holding Company Relief Act.** This legislation, introduced by Representative Mia Love, would update the Federal Reserve's Small Bank Holding Company (BHC) threshold and provide relief for hundreds of community banks and thrifts. Under this proposal, the BHC threshold would be increased from \$1 billion to \$3 billion. By doing so, more banks and thrifts will qualify for coverage under the BHC and will be exempt from certain capital and regulatory guidelines that do not provide materially more safety and soundness protection for these community banks.

This legislation facilitates the ability of community banks to issue debt and raise capital; thus increasing their involvement in promoting the growth of their local economies. This is important as regulators have proposed through other regulations to increase capital requirements for both community banks and larger institutions in the coming years. *ABA supports H.R. 4771.*

**H.R. 4790, Volcker Rule Regulatory Harmonization Act.** This legislation, introduced by Representative French Hill, would simplify the Volcker Rule by designating the Federal Reserve as the rulemaking agency over all affiliates in a banking group, and by delegating examination and enforcement authority to banks' primary Federal banking agency. While a more extensive review of the Volcker Rule is warranted, ABA supports the concept in this legislation and believes the legislation provides proper safeguards while streamlining the process and giving the Federal Reserve authority to make exemption determinations under the Volcker Rule for banking entities, rather than having to rely on unanimous agreement from the five federal financial agencies. Additionally, the bill provides a clear exclusion for banks under \$10 billion. This represents a positive step toward more comprehensive reform efforts. *ABA supports H.R. 4790.*