

Date: November 13, 2017

To: Members of the Committee on Financial Services

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

Re: ABA View's on Bills Scheduled for November 14, 2017 Full Committee Mark-Up

On behalf of the members of the American Bankers Association (ABA), I am writing to share our views on several bills scheduled for consideration before the House Financial Services Committee on Tuesday, November 14, 2017. The ABA is pleased to see such a diverse set of reform proposals come before the Committee. We look forward to working with the Committee and the members of the House as these bills go through the legislative process.

H.R. 1153, the Mortgage Choice Act. This bipartisan legislation, introduced by Capital Markets, Securities, and Investment Subcommittee Chairman Huizenga and Representatives Meeks, Royce and Scott, makes needed clarifications to key provisions of the points and fees test determining whether a loan transaction meets the elements of the Qualified Mortgage test under the Dodd Frank Act (DFA). ABA supports H.R. 1153

H.R. 3093, the Investor Clarity and Bank Parity Act. This bipartisan legislation, introduced by Representatives Capuano, Stivers, Meeks, Foster, Gonzalez and Hultgren, amends the Volcker Rule to allow a hedge fund/private equity fund to share the same name as an investment adviser that is a banking entity, as long as the adviser isn't a bank or Bank Holding Company, the adviser doesn't share the same name or a variation as a bank or BHC, and the name doesn't contain the word "bank." ABA supports H.R. 3093

H.R. 3221, the Securing Access to Affordable Mortgages Act. This legislation, introduced by Representative David Kustoff, would help to expand credit to qualified borrowers by eliminating some appraisal requirements for certain loans held in portfolio for a period of at least three years. These relatively low dollar loans of under \$250,000 are collateralized by property that the lender can evaluate without the need and expense of a full appraisal, allowing for savings for the lender and borrower alike. Reducing the requirement an appraisal also saves time for the borrower, especially in areas facing an unprecedented shortage of appraisers. The ABA supports H.R. 3221.

H.R. 3299, the Protecting Consumers Access to Credit Act. This bipartisan legislation introduced by Representatives Patrick McHenry and Greg Meeks would codify the "valid-when-made" doctrine, a longstanding legal principle, that if a loan is valid when it is made with respect to its interest rate, then it does not become invalid or unenforceable when assigned to another

party. This common law principle has been a cornerstone of U.S. banking law for over 100 years. It provides critical legal certainty necessary for the effective and efficient functioning of the credit markets, thereby benefiting both individuals and small businesses. This doctrine was recently indirectly undermined by the Second Circuit's decision in *Madden v. Midland Funding, LLC*. By calling into question the "valid-when-made" doctrine, the decision has injected uncertainty into the secondary markets for consumer and commercial credit, resulting in increased costs and decreased competition. Banks depend on the ability to sell or assign the loans they originate to provide liquidity to support their lending operations and to foster their safety and soundness. We applaud Reps. McHenry and Meeks for introducing this legislation. The ABA supports H.R. 3299.

H.R. 3978, the TRID Improvement Act of 2017. This bipartisan legislation, introduced by Representatives Hill and Kihuen, would amend the Real Estate Settlement Procedures Act (RESPA) to require the Consumer Financial Protection Bureau (CFPB) to allow the accurate disclosure of title insurance premiums and any potential available discounts to homebuyers. Under current regulations, the CFPB does not permit title insurance companies to disclose available discounts for lender's title insurance on the government mandated disclosure forms. This creates inconsistencies in mortgage documents and causes confusion for consumers. This legislation would reduce this confusion by allowing title insurance companies to disclose available discounts and accurate title insurance premiums to consumers. This straightforward fix would benefit consumers across the country. ABA supports H.R. 3978.

H.R. 4292, bipartisan legislation introduced by Representatives Lee Zeldin and Carolyn Maloney, Ranking Member of the Capital Markets, Securities and Investment Committee, would improve the process for banks subject to the "living will submissions" process. Requiring filings no more frequently than every two years and timely regulator feedback on the submissions would make the resolution planning process more efficient, while still supporting regulators' ability to deal with a failed institution. This is a commonsense piece of legislation that provides needed reform. The ABA supports H.R. 4292.

H.R. 4293, the Stress Test Improvement Act of 2017. This legislation, introduced by Rep. Zeldin, would review the stress testing process and make the process far more transparent by subjecting the scenarios, methodologies, and models to notice and comment. The legislation, as drafted, is likely to undergo changes during committee consideration. ABA supports the legislation as proposed by Rep. Zeldin and we look forward to working with him and other members of the Committee as they craft language to address the stress testing process.

H.R. 4296, legislation introduced by Financial Institutions and Consumer Credit Subcommittee Chairman Blaine Luetkemeyer, would prohibit the establishment of operational risk capital requirements for banking organizations based on a number of factors. ABA supports the provision that operational risk capital calculations permit the exclusion of discontinued businesses and activities while allowing for adjustments based on qualifying risk mitigants. We look forward to working with Chairman Luetkemeyer on this legislation and would urge the Committee to support H.R. 4296.

We appreciate the opportunity to share our views with the Committee on measures which ABA has a formal position. We hope that those measures that ABA supports will be approved by the Committee and receive favorable consideration on the House floor.