American Bankers Association®

Memo

Date: May 20, 2025

To: Members of the House Committee on Financial Services

From: Kirsten Sutton, Executive Vice President, Congressional Relations & Legislative Affairs

Re: ABA's Views on Legislation for the May 20-21, 2025 Full Committee Markup

On behalf of the members of the American Bankers Association (ABA),[1] please see below the association's views on the following bills that are scheduled for consideration by the Committee on May 20 – 21, 2025. Thank you for the opportunity to express our views on these measures.

Financial Institutions Legislation

The American Bankers Association supports the following bills noticed for today's markup:

- H.R. 940, the Fair Audits and Inspections for Regulators' (FAIR) Exams Act, led by Chairman French Hill, would provide greater transparency in bank exams and establish a new, independent appeals process. ABA agrees that there should be more fairness and accountability in the bank examination process, including an improved process for institutions to appeal supervisory determinations and a prompt review of Material Supervisory Determinations.

- H.R. 2702, the Financial Integrity and Regulation Management (FIRM) Act, led by Rep. Andy Barr, would prohibit the federal financial regulators from implementing subjective oversight akin to "Operation Chokepoint" in the future by removing reputational risk as a component of federal supervision when determining the safety and soundness of regulated depository institutions. Beginning in 2013, the U.S. Department of Justice and federal banking regulators forced banks to terminate relationships with a number of politically disfavored customers through Operation Chokepoint. This government-led effort to inappropriately limit access to vital financial services for specific customers or groups of customers significantly undermined the banking industry by unduly pressuring banks into making unnecessary derisking decisions. While this policy was eliminated during the first Trump Administration, supervisory and regulatory pressure pushed banks away from certain relationships again beginning in 2021. It is clear that a more durable legislative solution is required to curb this practice over the long term.

- H.R. 3230, the Financial Institution Regulatory Tailoring Enhancement Act, led by Rep. Andy Barr, would raise the asset threshold from $10 billion to $50 billion for

[1] ABA is the voice of the nation's $24.1 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2.1 million people, safeguard $19.2 trillion in deposits and extend $12.7 trillion in loans.

applicability of certain regulations, including CFPB supervision, the Volcker Rule, qualified mortgage standards, and certain leverage and risk-based capital requirements. While ABA has long expressed concerns about arbitrary asset thresholds, if they are to be used, they must be adjusted or indexed to ensure they keep up with the growth in the banking industry. Organic bank growth and consolidation driven by heavy regulatory burdens triggered by asset size have rendered the $10 billion asset level and other Dodd Frank thresholds even less meaningful. ABA supports regulatory tailoring, including by increasing these asset levels. In addition to these reforms, ABA believes that the harmful Durbin amendment to the Dodd-Frank Act should be repealed. Debit interchange caps and routing mandates have proven harmful to the banking industry and its customers and should be eliminated.

- <u>H.R. 1900, the Bank Failure Prevention Act of 2025,</u> led by Rep. Andy Barr, would require the Federal Reserve to decide on merger applications within 90 days and is intended to restore transparency and timeliness in the bank acquisition application process. This legislation would help eliminate uncertainty and delays in the acquisition application process, allowing institutions to meet economies of scale and fostering a vibrant, dynamic financial services ecosystem.

- <u>H.R. 3379, the Halting Uncertain Methods and Practices in Supervision (HUMPS) Act of 2025,</u> led by Rep. Scott Fitzgerald, would require the Federal Financial Institutions Examination Council (FFIEC) to develop formal recommendations to revise the CAMELS rating system and in turn require the regulatory agencies to implement them through joint rulemaking. This legislation would establish objective, quantifiable criteria for each CAMELS component, revise the weighting methodology to better reflect actual risk, and either eliminate or narrow the scope of the Management component within the CAMELS framework. ABA noted in its December 23, 2024, response to Chairman Hill's Community Banking Principles for the 119th Congress that it encourages the Fed, FDIC, and OCC, to review the CAMELS system to ensure that it accommodates modern banking practices and a diverse range of business models. We also support the establishment of a more formal regulatory approach to CAMELs through the formal rulemaking process.

- <u>H.R. 3380, the Taking Account of Institutions with Low Operation Risk (TAILOR) Act of 2025,</u> led by Rep. Barry Loudermilk, would require the OCC, FDIC, Federal Reserve, NCUA, and CFPB to consider an institution's risk profile and business model when issuing new regulations or taking supervisory actions. This legislation would require the regulators to tailor rules in a way that minimizes unnecessary burdens, especially for low-risk institutions such as community banks. The ABA agrees that prudential regulation and supervision should be tailored based on capital structure, risk profile, complexity, activities, business model and size of the institution. If asset thresholds are a factor, we strongly encourage the thresholds to be indexed for inflation. Currently, many asset thresholds are set as fixed dollar amounts, which, over time, can lead to regulatory requirements that are misaligned with institutions' actual risk profiles and systemic impact.

Capital Markets Legislation

The American Bankers Association supports the following bills noticed for today's markup:

- H.R. 1013, the Retirement Fairness for Charities and Educational Institutions Act, led by Rep. Frank Lucas, would level the playing field among retirement plans by expressly authorizing 403(b) plans to invest in bank collective investment trusts (CITs or collective funds). These bank-maintained trusts collectively invest the assets of multiple qualified tax-exempt retirement plans through either passively managed (indexed) or actively managed plans. Most CITs include daily valuations and trade processing and are offered in a wide range of asset classes, including domestic equity, international equity, domestic fixed income, international fixed income, stock/bond blend, target date funds, and short-term investment funds. Retirement plan sponsors and their record keepers are increasingly choosing to invest through these customized investment options due to the fact that CITs are cost effective and offer more investment options for 401(k) and similar defined contribution plans.

- H.R. 2441, the Improving Disclosures for Investors Act of 2025, led by Rep. Bill Huizenga, would require the SEC to promulgate rules to allow for the use of electronic delivery options to meet regulatory communication requirements to investors. This legislation would modernize disclosure requirements to keep pace with technological advancements while creating efficiency and reducing costs for these required communications.

- H.R. 1469, the Senior Security Act, led by Rep. Josh Gottheimer, would create a task force at the SEC dedicated to combating exploitation of senior investors. This legislation closely aligns with the work of the American Bankers Association and its nonprofit foundation—the ABA Foundation—to protect bank customers against elder financial exploitation. ABA is deeply committed to developing tools to educate consumers and preventing financial fraud, and this legislation takes a meaningful step toward safeguarding seniors in the investment arena.

Conclusion

The ABA respectfully requests that the Committee favorably report the bills summarized above. Thank you for the opportunity to express our views on this important legislation.