

Date: September 12, 2016

To: Members of the House Financial Services Committee

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

Re: ABA's Views on H.R. 5983, the Financial CHOICE Act

On behalf of the members of the American Bankers Association, I am writing to share our views on H.R. 5983, the Financial CHOICE Act scheduled for consideration before the House Financial Services Committee on Tuesday, September 13, 2016.

ABA would like to thank Chairman Jeb Hensarling and members of the Committee for making financial regulatory reform a key part of the Committee's agenda for the 114th Congress. Since July 2010, 1,708 banks, primarily community banks, have disappeared. There are many factors beyond the Dodd-Frank Act (DFA) that have caused the closure of these institutions, but the sheer weight of more than 24,000 pages of proposed and final rules has become a key consideration for many institutions in determining their future. That is why Congress and the regulatory agencies must work together to continue to pursue legislative and regulatory changes that will keep financial institutions strong and vibrant so they may continue to serve their customers and communities.

H.R. 5983 contains many provisions long-supported by the ABA:

- Several measures that have received bipartisan support in the Committee and/or on the House floor that move to address this regulatory burden, such as: the TAILOR Act, which requires financial regulators to tailor regulations to fit an institution's business model and risk profile; the Qualified Mortgage (QM) safe harbor provision for mortgages held in a lender's portfolio; a provision to establish an Office of Independent Examination Review to permit appeals of examination decisions; a provision to raise the Federal Reserve's Small Bank Holding Company threshold to \$5 billion in consolidated assets; a measure to provide mutual institutions with greater flexibility to exercise national bank powers without changing their charters; and, legislation to allow highly rated banks to file short form call reports.
- Repeal of the "Durbin Amendment," an ill-conceived price fixing amendment added at the last moments during consideration of DFA. This amendment, pushed through on a promise to Congress from retailers that a price cap on debit card processing would generate savings for retail stores that would be passed on to consumers through lower prices at the cash register, has failed to produce those results. Consumers, however, have

paid the price as these artificial price controls have resulted in, among other things, a reduction in access to low-cost banking accounts for those that need it most. We thank Financial Institution Subcommittee Chairman Randy Neugebauer for his leadership on this issue.

- A series of other provisions which eliminate unnecessary compliance problems and costs, freeing up bank resources to better serve their communities, including: language to reform the exceedingly complex, costly and burdensome “Volcker Rule” allowing banks to engage in traditional, routine, and prudent lending without fear of triggering the rule; language to provide needed relief for institutions with more than \$10 billion and less than \$50 billion in assets from having to conduct costly and overly-bureaucratic stress tests; and, relief from duplicative examinations from the Consumer Financial Protection Bureau for institutions below \$50 billion, a much sought bipartisan proposal that is overdue.

There are many other thought-provoking provisions that will require additional review and analysis to fully understand their implications, including a provision to allow eligible institutions a reprieve from some regulatory requirements if they are deemed well capitalized. H.R. 5983’s move to incorporate a well-understood GAAP accounting standard for capital measurement significantly reduces the compliance complexity associated with the draft proposal. We commend the sponsors for taking this action, but questions remain about additional aspects of the capital proposal that may unnecessarily limit the benefits of the approach to hundreds of well-run banks of all sizes, including many community and mid-size institutions. The use of simple litmus tests for qualifying for relief could fail to fully incorporate the use of many safe and legitimate risk management tools that allow banks to better serve their customers and communities. We look forward to working with the Chairman and the Committee as this legislation moves through the process to address these issues.

As the Committee moves forward with regulatory reform, we respectfully request that the committee also consider other much-needed measures. Among them, legislation to require the Financial Stability Oversight Counsel to establish a process to formally designate individual financial institutions as “systemically important.” Since the enactment of DFA and its statutory size thresholds, banking regulators have relied heavily on the asset size of financial institutions, creating regulatory “cliffs” whereby all institutions over a certain size are regulated and supervised the same. Although size-only regulation may be a simple short cut means of supervising financial institutions, it is inappropriate and needlessly burdensome for many financial institutions with noncomplex operations and business models, thereby increasing costs and reducing products and services available to bank customers. This legislation, advanced by Housing and Insurance Subcommittee Chairman Blaine Luetkemeyer, has received strong bipartisan support in the Committee and throughout Congress.

Additionally, legislation to streamline currency transaction reporting by financial institutions and raise the threshold for filing such reports from the current \$10,000 to at least \$20,000 is needed; and, additional regulatory reforms to amend the Federal Reserve Act to revise the formula for

subscription of national banking associations to the stock of their regional Federal Reserve Bank is likewise appropriate.

We thank Chairman Hensarling for introducing H.R. 5983 and for his steadfast approach in working to ensure that our nation's financial system is on strong footing and that banks, which are at the core of building strong communities, are allowed to continue to serve their customers and communities. We look forward to working with the Chairman and the committee as the CHOICE Act moves to the House floor.