American Bankers Association
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To: Members of the Committee on Financial Services

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

Re: ABA's Views on Bills Scheduled for May 7 Mark-Up

On behalf of the members of the American Bankers Association (ABA), I am writing to share our views on several measures scheduled to be considered before the House Financial Services Committee on Wednesday, May 7, 2014.

H.R. 4466, introduced by Financial Institutions Chairman Shelley Moore Capito (R-WV) and Ranking Member Gregory Meeks (D-NY), would require a review and reconciliation of existing regulations that may be in conflict with or duplicative of new rules being promulgated by the banking agencies. As the Committee knows from ABA's previous testimonies, the mountain of banking regulations continues to grow. For most banks, managing large and costly compliance burdens has real consequences on a bank's ability to meet the credit and financial service needs of their customers. H.R. 4466 would help to eliminate conflicts among different regulations, thereby eliminating additional compliance burdens and considerable aggravation as banks struggle to reconcile differences that exist. In essence, this bill would help banks by allowing them to get back to doing the business of banking. **H.R. 4466 is a significant step in the right direction and we urge support for this legislation.**

As this legislation moves forward, we suggest the bill should also cover not only instances where a new regulation conflicts with, is duplicative or inconsistent with existing regulations or orders, but also instances where a new regulation is in conflict with, duplicative or inconsistent with new guidance or regulations. Moreover, the bill should enable regulators to address instances where a targeted rule may have created an unintended compliance obligation for banks not engaged in the activity in question.

ABA is also pleased to support H.R. 4521, Community Institution Mortgage Relief Act of 2014, introduced by Rep. Blaine Luetkemeyer (R-MO). This legislation would exempt from the escrow requirements imposed under the Dodd/Frank Act loans held by small creditors with less than $10 billion in assets. ABA supports the legislation's expansion of the Consumer Financial Protection Bureau's (CFPB) "small servicer" exemption to include servicers that annually service 20,000 or fewer mortgage loans. These important exemptions recognize the strong history of small institutions in providing high-quality mortgage servicing, even with limited staff and resources of smaller institutions. Given their track record, small servicers should be incentivized to continue to service mortgage loans. Unfortunately, existing regulations are having the opposite effect. The existing escrow rules have the potential to drive small creditors from the mortgage market because it is difficult, if not impossible, for them to provide escrow services in a cost effective manner. Further, imposing escrow requirements often runs counter to customer preference as many mortgage customers prefer to pay tax and insurance bills on their own and not establish escrow accounts. Without the exemptions provided in this legislation,

customers of smaller institutions will face higher costs to offset the cost of compliance for a service which they do not in some cases even want. Worse, some customers will face fewer credit choices as small local lenders choose to exit the mortgage market rather than incur the added staffing and technical expenses of adding escrow services. **This is an important piece of legislation and ABA urges committee members to support H.R. 4521.**

The Committee is also scheduled to consider H.R. 2673, the Portfolio Lending and Mortgage Access Act, introduced by Rep. Andy Barr (R-KY). This legislation would deem any loan made by a lender and held in that lender's portfolio as compliant with the Qualified Mortgage rule under the Dodd/Frank Act (DFA). The Qualified Mortgage or QM label is given to loans which can be shown to meet the qualifications of the Ability to Repay provisions of DFA. Loans held in portfolio are, by their very nature, loans which can be repaid; otherwise they would present safety and soundness concerns and would not be allowed by a lender's prudential regulators. Simply put, banks do not make and hold loans on their portfolios that cannot be repaid and stay in business for long. H.R. 2673 is a common sense approach to showing that a loan meets the QM and ability to repay requirements of Dodd/Frank without imposing additional challenges to borrowers and lenders in the lending process.

The Dodd/Frank Act was very restrictive in its definition of ability to repay. So restrictive, in fact, that it has forced the CFPB to delay implementation of some aspects of the rule which would eliminate balloon loans. These loans, which are in virtually all cases held in portfolio, are a useful and in-demand product for many customers, particularly those in rural areas seeking smaller dollar loans and those that do not meet secondary market eligibility requirements. H.R. 2673 addresses this problem by allowing balloon loans, along with other types of loans to meet the QM definition, so long as the loan is held on the bank's books.

This is an important and much needed correction to the restrictive standards set for some loans in the Dodd/Frank Act. **ABA strongly urges the Committee's support for H.R. 2673.**

Additionally, the Committee is slated to consider H.R. 3211, the Mortgage Choice Act. This bipartisan legislation, introduced by Rep. Bill Huizenga (R-MI), 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 DFA. Specifically, the bill would exclude lender-paid compensation to a bank in a wholesale transaction. Under current law, inclusion of this payment could cause a loan to exceed the 3% cap on points and fees, while a loan with the same interest rate and out of pocket costs made by a retail lender would not.

Many community banks, particularly in rural areas, operate exclusively through the wholesale origination channel, rather than building a retail brand presence in the market. Treating them differently will threaten their economic viability, and deprive low and moderate-income homebuyers and rural customers of an important source of affordable mortgage credit. **This legislation provides needed clarification and ABA supports passage of H.R. 3211**.

The Committee will also consider several other thoughtful measures which are not directly related to the banking industry. We do not have formal positions on those measures. We appreciate the Committee's consideration of the bills that will help the banking industry better serve the needs of consumers.