

March 24, 2015

To: Members of the House Financial Services Committee

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

Re: Full Committee Markup -- Wednesday, March 25

On behalf of the American Bankers Association, I am writing to express our support for several bills scheduled for consideration before the Committee on Financial Services on Wednesday March 25, 2015. Several of these measures are included in *ABA's Agenda for America's Hometown Banks*, which we shared with Congress in February. Passage of these bills will help hometown banks throughout the country better serve the needs of their customers.

H.R. 601, the Eliminate Privacy Notice Confusion Act, introduced by Representatives Blaine Luetkemeyer (R-MO) and Brad Sherman (D-CA), would provide an exemption from the Gramm-Leach-Bliley Act's annual notice requirement for institutions that have not changed their privacy policies and only share personal information within the statutory exceptions. This ABA supported legislation has received strong bipartisan support in previous Congresses and is long-overdue. It is a common sense measure that has passed the House by voice vote in both the 112th and 113th Congress. We urge the Committee to once again pass this measure.

H.R. 685, the Mortgage Choice Act, introduced by Representatives Bill Huizenga (R-MI), Gregory Meeks (D-NY), Ed Royce (R-CA), David Scott (D-GA), Steve Stivers (R-OH), Patrick Murphy (D-FL), Stephen Fincher (R-TN) and others 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). This bipartisan legislation provides needed clarifications and ABA supports passage of H.R. 685.

H.R. 1195, the Bureau of Consumer Financial Protection Advisory Boards Act, introduced by Representatives Robert Pittenger (R-NC) and Denny Heck (D-WA) would establish a Small Business Advisory Board with the Consumer Financial Protection Bureau (CFPB). The purpose of the board would be in an advisory and consultative capacity with the CFPB on any new regulations coming forward that may impact the small business community. This board will bring together the best of the financial services community to discuss rules and regulations important to small businesses. ABA supports H.R. 1195 and would urge the Committee to support this legislation.

H.R. 1259, the Helping Expand Lending Practices in Rural Communities Act, introduced by Representatives Andy Barr (R-KY) and Ruben Hinojosa (D-TX) would direct the CFPB to establish an application process under which a person who lives or does business in a state may

apply to have an area designated as a rural area if it has not already been designated as such by the Bureau.

The Dodd-Frank Act provided the CFPB with discretionary authority to exempt certain loans from the qualified mortgage rule. The CFPB has exercised this authority to accommodate community banks that make short-term balloon loans as a means of hedging against interest rate risk. The exemption applies only if, during the preceding calendar year, the creditor extended more than 50 percent of its total covered transactions that provide for balloon payments in one or more counties designated by the Bureau as “rural” or “underserved.” Thus, the definition of rural and underserved is critical and can dramatically affect banks and the communities they serve.

The CFPB has struggled with an appropriate definition as there are dozens of different definitions of “rural” used for various federal government purposes. The CFPB’s original definition of rural—which the Bureau has appropriately put on hold—was far too narrow and was inconsistently applied and would have had a dramatic, negative impact on small lenders and communities.

The CFPB acknowledges the narrowness of its original definition of “rural” and the willingness of small portfolio lenders to serve borrowers with specialized needs, as well as the necessity for protection in order for these lenders to continue to make loans meeting these needs. ABA supports this legislation which passed the full House last year by voice vote.

H.R. 1265, introduced by Representatives Sean Duffy (R-WI), Randy Neugebauer (R-TX) and Andy Barr (R-KY), would apply the requirements of the Federal Advisory Committee Act to the Bureau of Consumer Financial Protection. While we are pleased that the Bureau is making more advisory board and council meetings open to the public, we support legislation such as H.R. 1265, which will ensure that the Bureau remains transparent in its operations.

H.R. 1408, the Community Bank Mortgage Servicing Asset Capital Requirements Act of 2015 introduced by Representatives Ed Perlmutter (D-CO) and Blaine Luetkemeyer (R-MO), would defer implementation of the Basel III rules on mortgage servicing assets (“MSAs”) until the impact of the new rules can be studied and alternatives explored. ABA supports this legislation.

Many banks that make mortgage loans also engage in servicing, which primarily consists of collecting mortgage payments and forwarding them to the “owner” of the loan; collecting insurance and tax payments; and addressing problems such as late payments, delinquencies, and defaults. Banks commonly sell mortgage loans into the secondary market but retain the right to service the loan (called “servicing retained”). This strategy is an important way for banks to maintain valuable connections with their customers, while managing interest rate risk by selling long-term credit assets.

Banks are retaining less mortgage servicing due to Basel III’s unfavorable capital treatment of MSAs. As a result, Basel III is unintentionally increasing the concentration of servicing held by less regulated, non-bank firms such as mortgage companies, REITs, hedge funds, and private equity firms that are not subject to the new capital restrictions. The long-term relationships that

banks and their customers have established should not be penalized by Basel III's punitive capital treatment of MSAs.

Banks should be encouraged to service the loans that they make to their customers. This legislation stops the negative effects until the impact can be fully examined. The bill does not apply to the large international banks that Basel III was meant to address. We urge the Committee to support H.R. 1408.

H.R. 1480, introduced by Representative Robert Dold (R-IL) would protect the confidentiality of information shared with state regulators. This same standard already applies to information shared with the Federal Reserve and ABA supports this legislation.

The Committee is also scheduled to consider legislation introduced by Representative Brad Sherman (D-CA), the Community Institution Mortgage Relief Act of 2015. The bill provides a legal safe harbor from escrow requirements for smaller financial institutions that hold loans in portfolio for three years. This bill also instructs the CFPB to provide exemptions to, or adjustments for, servicers that annually service 20,000 or fewer mortgage loans. Providing flexibility for small servicers, as this bill does, is important and we support favorable consideration of this measure.

The Committee will also consider three additional bills (H.R. 299, H.R. 650 and H.R. 1367). ABA does not have a formal position on these measures and looks forward to working with the Committee as these measures move forward.