Statement for the Record

On behalf of the

American Bankers Association

before the

Committee on Banking, Housing and Urban Affairs

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Chairman Crapo, Ranking Member Brown, and members of the Committee, the American Bankers Association (ABA) appreciates the opportunity to submit this written statement for your June 15 hearing: "Foster Economic Growth: Midsized, Regional and Large Institution Perspective." The ABA is the voice of the nation's $17 trillion banking industry, which is composed of small, midsize, regional and large banks that together employ more than 2 million people, safeguard $13 trillion in deposits and extend over $9 trillion in loans. The diversity in ABA's membership reflects the great and needed diversity of the banking system that is designed to meet the ever changing needs of our complex economy. It is this diversity that enables the industry to provide greater access to credit at lower borrowing costs to hundreds of millions of consumers, support growth and prosperity opportunities for our local, state and national economies, and support cutting edge technology that provides secure and innovative financial services.

Our members have long advocated regulatory relief and other proposals that would help the industry better serve consumers and our local communities. On April 12 of this year, we were pleased to send Committee members specific proposals in response to the joint request for ideas that would stimulate economic growth and community development.[1] Building on this, on June 8, ABA Chairman Dorothy Savarese, Chairman, President and CEO of the Cape Cod Five Cents Savings Bank, appeared before the Committee to provide testimony on the need for regulatory relief for community financial institutions.[2]

Many of the specific suggestions for regulatory and legislative reform highlighted both in Ms. Savarese's testimony last week and in our April 12, 2017 submission to the Committee are equally applicable across ABA's membership. In particular, calls for reforms that would encourage, not hinder, safe and sound mortgage lending, tailor regulations according to the risks and business model of the bank, modernize regulations governing stable deposit gathering, and better focus of Consumer Financial Protection Bureau's (Bureau's) initiatives and oversight would be welcomed by all in the banking industry.

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[1] See: www.aba.com/Advocacy//ABASubmissionforCrapoBrownLegislativeProposals.pdf
[2] See: http://www.aba.com/ABATestimony060817.pdf

In testimony, and in comments to the Treasury Department and the regulatory agencies, ABA has consistently made it clear that the growing volume and complexity of bank regulation is negatively impacting the ability of banks of all sizes to meet customers' and communities' needs. That is why ABA is very pleased to further this discussion with the submission of this statement.

We agree on the need for strong regulation. Indeed, lawmakers, regulators and bankers themselves took important steps after the crisis to improve safety and soundness of the industry. But included in the more than 25,000 pages of new and proposed rules implementing the Dodd-Frank Act (DFA) are requirements that are harming the ability of banks to serve creditworthy customers and our communities.

It is encouraging to hear lawmakers of both parties and the Administration acknowledge the need for common-sense changes—regulatory calibrations that can kick-start our economy while maintaining a financial system that is safe, sound and resilient. ABA has, and continues to support, several legislative proposals as part of our Blueprint for Growth plan that would improve the regulatory environment and our overall economy. For example, ABA strongly supports:

- The TAILOR Act (S. 366), introduced by Senator Mike Rounds (R-SD), that would empower the regulators to "tailor" regulatory actions so that they apply only when required by the bank's business model and risk profile. Time and again, we hear from bankers wondering why the complex set of rules, reporting requirements, and testing that are imposed upon the largest, most diverse and global institutions become the standard applied to all institutions in the country. The key to stimulate economic growth and community development is to stop treating all banks as if they were the largest, most complex institutions. Financial regulation and examination should not be one-size-fits all.

- Bipartisan legislation (S. 828) introduced by Senators Mike Rounds (R-SD) and Mark Warner (D-VA) that would expand banks' abilities to count municipal securities as high quality liquid assets under the Liquidity Coverage Ratio. This legislation could be further improved by removing similar impediments that discourage banks from accepting municipal deposits.

Since the enactment of the Dodd-Frank Act and its statutory size thresholds, banking regulators have relied heavily on the single criterion of asset size of financial institutions as a proxy for systemic risk, creating regulatory "cliffs" whereby all institutions over a certain size are regulated and supervised the same. We have seen this not only with regulations specifically implementing the DFA, but more broadly in all areas of prudential supervision. Although size-only regulation may be a simpler method for 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. In short, economic growth in our communities suffers.

As noted, our industry is composed of small, midsize, regional and large banks. Some hold state charters, others national charters. Some are commercial banks, others savings associations. Some are publicly owned, others family-owned, and still others are mutually owned by their customers. Some are diverse in their specialization, from agriculture banks, to trust companies, to wealth management, to banks that emphasize business lending. Unfortunately, the trend in bank regulation over the last several years has been to standardize or homogenize the industry in many instances, making banks look more and more alike, when in fact the U.S. has a highly diversified industry—diversity that is necessary and desirable for supporting our highly diversified $19 trillion economy.

For example, the provisions in the DFA labeling all banks with $50 billion or more in assets as "Systemically Important Financial Institutions" or SIFIs, were put in place without consideration of the diversity in business models—and risk posed—of the financial institutions. In fact, the roughly 38 financial institutions that currently qualify as SIFIs differ significantly in asset size ($63 billion to over $2.5 trillion), scope of business activities, corporate structure and global reach and impact. This diversity of risk and business model, and the inappropriateness of regulating these institutions in the same manner, has led former Federal Reserve Board Governor Daniel Tarullo and former House Financial Services Committee Chairman Barney Frank (D-MA) to comment on the arbitrary nature of the $50 billion threshold for SIFIs and recommend that it be reconsidered.

Aside from this threshold, there are a host of other new regulatory requirements that apply to banks that cross the $10 billion asset threshold that are equally as arbitrary and unnecessary—such as stress testing and additional examination from the Bureau. Moreover, although the DFA and implementing regulations do provide some discretion for tailoring certain regulatory requirements, the regulators more often than not have increased the use of thresholds rather than put that discretion to use. For example, in a recent Advanced Notice of Proposed Rulemaking several agencies proposed subjecting financial institutions with more than $50 billion in assets to greater cybersecurity compliance requirements regardless of the risks posed by a potential breach of its systems to the financial system—unnecessarily covering many regional banks.[3]

<u>"Tailored" Regulation is the Best Solution</u>

Legislation has been introduced to increase many of these thresholds, and in the short-term this may provide relief for some institutions, but thresholds of any type are arbitrary and a poor substitute for effective regulatory policy. Rather than adding more thresholds, what is needed are better overall principles for bank regulation. The best solution is to tailor regulations according to the risks and business model of the bank. This is the most effective model for bank regulation because it encourages diversity of business models while

[3] See: https://www.occ.gov/news-issuances/news-releases/2016/nr-ia-2016-131a.pdf

providing a regulatory program best adapted to the risks of each bank. Pending legislative action, the regulators should use their discretion under current law to tailor regulations appropriately.

As the report *A Financial System That Creates Economic Opportunities Banks and Credit Unions* released on June 12 by the Treasury Department notes, effective financial regulation should focus on risk rather than solely the size of the institution: "Most critically, regulatory burdens must be appropriately tailored based on the size and complexity of a financial organization's business model and take into account risk and impact."[4] ABA supports the Treasury Department's conclusion, and believes it is imperative that regulations be tailored to the size and complexity of the institution's business model.

We will encourage the Treasury Department and the prudential regulatory agencies to apply these principles to both existing rules and new regulatory initiatives moving forward. In particular, ABA has called for a review and reform of basic capital and liquidity regulations which affect banks throughout their operations and have a profound impact on the overall economy.[5] The requirements for capital and liquidity affect both the amount of financial services banks can provide and the form that these services take. Unnecessary or arbitrary requirements ultimately limit the economic growth and prosperity opportunities for our local, state and national economies.

Many useful ideas for better tailoring the scope and design of the regulatory framework now in place are offered in the Treasury report for consideration and implementation by the bank regulatory agencies. These include recommendations regarding adjustments to capital rules that carefully focus on risk, revising the calculation of liquidity to avoid future liquidity stresses, simplifying the process of producing and reviewing living wills so that banks can focus on the business of banking, and refining the Volcker Rule to better target the risky activity sought to be limited. We look forward to working with the Treasury Department and the banking agencies to craft better approaches to achieving regulatory safety and soundness objectives without jeopardizing banks' role in economic activity.

Legislative Proposals to Improve the Regulatory Environment

Even if progress can be made on the regulatory front, in many cases legislative changes will be necessary. As the Committee moves forward in considering regulatory relief legislation, in addition to Senator Rounds's TAILOR Act (S. 366) and the bipartisan legislation introduced by Senators Rounds and Warner (S. 828), ABA encourages you to consider the following:

- Rep. Blaine Luetkemyer's (R-MO) Systemic Risk Designation Improvement Act (H.R. 6392, 114th Congress) which would authorize the Federal Reserve Board to subject a bank holding company to

[4] See: https://www.treasury.gov/press-center/press-releases/Documents/A%20Financial%20System.pdf Page 9
[5] See: http://www.aba.com/Issues/Documents/ABA-White-Paper-Regulatory-Capital-Standards.pdf and See http://www.aba.com/Advocacy/LetterstoCongress/Documents/LiquidityReport-ABA-March2017.pdf

enhanced supervision and prudential standards if it makes a final determination that material financial distress at the bank holding company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of its activities, could threaten the financial stability of the United States. This legislation would provide a true risk-based analysis to systemic importance determinations and would ensure that regulatory supervision is appropriately tailored to a financial institution's risk profile.

- S. 1139, introduced by Sens. Jon Tester (D-MT), Jerry Moran (R-KS), and Heidi Heitkamp (D-ND) would provide relief from the DFA stress tests, reducing the mandated frequency of testing for all institutions and removing many from the stress test process altogether. The DFA, without real analysis, inserted artificial asset thresholds within the regulatory system. ABA has long sought reform of the stress test process as it imposes excessively heavy burdens on institutions for which stress tests are superfluous or not well suited. The legislation takes a critical first step to reform this process and we urge the Committee to do more to broaden this relief further.

- In addition, as you review DFA, we would urge you to examine Section 1071. This section of DFA requires the Bureau to prescribe rules for collecting and reporting data on lending to minority-owned and women-owned small business. Unfortunately, this data collection—similar to the data collected under the Home Mortgage Disclosure Act—over-simplifies the nature of the small business lending environment, and will mislead community leaders, government entities and creditors from identifying the business and community development needs and opportunities for local small businesses. Moreover, there has been no analysis of whether this new data collection duplicates existing data on small business lending collected by the Small Business Administration (SBA) and the banking agencies pursuant to the Community Reinvestment Act. Perhaps, most troubling is there has been no analysis of its impact on economic growth given the potential negative effects this may have on a local community. The considerable burdens associated with this data collection and reporting regime would add significant costs and unnecessary red tape to small business lending, discouraging a primary engine for economic growth. Compliance with this rule will impede the individualized approach banks take when lending in their local communities due to potential fair lending liability concerns.

  A full repeal of this Section 1071 is warranted. Absent this, the Bureau and the SBA should be required—before the Bureau is authorized to prescribed any rule for collecting and reporting loan data—to conduct a joint-study to determine whether the proposed collection would be duplicative of existing data collections and to determine whether the costs for such data collection exceed potential benefits. The agencies should also be required to submit a report to Congress on their findings along with their recommendations, if any, for prescribing rules for the collection and reporting of minority-owned and women-owned small business loan data.

- Legislation that streamlines the rules for Currency Transaction Reporting by establishing an exception for very well-known customers and raising the current threshold for filings from $10,000 to $20,000.

Conclusion

Rules and requirements surround every bank activity. When it works well, bank regulations helps ensure the safety and soundness of the overall banking system. When it does not, it constricts the natural cycle of facilitating credit, job growth and economic expansion. Finding the right balance is key to encouraging economic growth and prosperity.

We are now in the eighth year of post-DFA regulation; more than 25,000 pages of new and proposed regulations have been promulgated since enactment of this law covering capital, liquidity, risk-management, stress testing, failure resolution, business processes, compensation, loan-loss reserves, as well as rules and standards for specific product lines, such as mortgages and derivatives. Taken together, and with the experience of several years of application of the new regulatory regimes, it is clear that there have been negative unintended consequences impacting consumers and the economy. It is appropriate for Congress to review bank regulations, particularly the DFA, before the unintended consequences become impossible to reverse.

ABA hopes that you will consider the legislative proposals and other recommendations included in this statement as part of your overall regulatory relief effort. We look forward to working with you and members of the Committee to enact legislation that will ensure the banking industry’s ability to facilitate economic growth and prosperity.

Thank you for the opportunity to express the views of the American Bankers Association.