S. 2155: The Economic Growth, Regulatory Relief and Consumer Protection Act

Bill Highlights and Testimonials

ABA supports S. 2155 — the Economic Growth, Regulatory Relief and Consumer Protection Act — because it offers targeted, commonsense fixes to ill-fitting financial regulations that have limited banks' ability to serve their customers, clients and communities.

S. 2155 is the first major banking bill to gain substantial bipartisan support in a decade. Negotiated by Senate Banking Committee Chairman Mike Crapo (R-Idaho) and Sens. Jon Tester (D-Mont.), Heidi Heitkamp (D-N.D.), Mark Warner (D-Va.) and Joe Donnelly (D-Ind.), the legislation also includes a number of provisions that had their origins in the House.

ABA believes S. 2155 is an important step towards right-sizing financial regulation and is grateful to the lawmakers from both parties – and both chambers – who set partisan politics aside to help their constituents succeed.

We also encourage Congress to take additional steps in tailoring financial rules to better fit the risks posed by individual institutions. We know this can be done while maintaining the financial system's safety and soundness.

Following are highlights of the bill, along with illustrations of why some of its provisions are important to America's banks.

"Our bill offers much-needed reforms that will reduce unnecessary burdens on smaller financial institutions so that they can use more of their capital serving customers, rather than complying with federal regulations that were never intended for them."

Senate Banking Committee Chairman Mike Crapo (R-Idaho), March 7, 2018

"I have talked to many fellow bankers who decided to sell to, or merge with, another bank. Almost every one of them has told me regulatory burden was one of the main reasons for them to sell or merge. The loss of small community banks is not good for our country, our consumers or our economy.

"S. 2155 provides many remedies to lessen the regulatory burden on small banks, which will allow us to remain competitive, viable and able to serve the needs of our communities."

Rex Phipps, CEO, Garfield County Bank, Jordan, Mont.

"As a small $360 million financial institution, we are a major economic development engine in our rural New Mexico community. We all work on economic development activity as it is the lifeblood of creating jobs and maintaining a good quality of life. The changes that S. 2155 enacts will help us better serve our customers, enabling them to have and do more."

Jay Jenkins, Carlsbad National Bank, Carlsbad, N.M.

Title I: Improving Consumer Access to Mortgage Credit

- Designates mortgages held in portfolio as Qualified Mortgages (limited to banks with less than $10 billion in assets), giving more creditworthy borrowers access to mortgages while maintaining incentives for strong underwriting.
- Allows for voluntary donations of appraisal services for Habitat for Humanity and similar homes.
- Provides relief from appraisal requirements in rural areas, where appraisers are scarce.
- Protects the original information the Home Mortgage Disclosure Act was designed to collect, while providing a path for relief from new requirements for lenders that originate a small number of mortgages (500 or fewer) and have a strong history of serving their community.
- Provides an exception to TILA escrow requirements for banks with less than $10 billion in assets that have originated 1,000 or fewer loans secured by a first lien on a principal dwelling during the preceding calendar year.
- Makes sure consumers do not have to wait for a lower rate by removing the three-day waiting period requirement in TILA/RESPA mortgage disclosures for second offers of credit.

"We are the only bank with any presence in three of Oregon's 36 counties. Without us, many folks in Eastern Oregon wouldn't have access to local financial services. They'd have to go online or drive as much as 100 miles just to make a deposit or get a mortgage loan.

"The sections of S. 2155 that apply to appraisal thresholds and mortgage lending are particularly important to us. They are commonsense approaches to allow banks like Bank of Eastern Oregon to remain in the mortgage lending space."

Jeff Bailey, Bank of Eastern Oregon, Heppner, Ore.

"The option to designate all mortgage loans held in our portfolio as Qualified Mortgages is very important to our bank and our customers. We operate in a rural area that has a lot of self-employed individuals. Many of these people are in agriculture-related businesses where their income varies substantially from year to year. They generally have sufficient assets and other sources of funds, but may not have consistent year-to-year income to fit in the 'QM box.' We are not willing to take on the risk of non-QM mortgage loans. Therefore under the current regulations, these loans are not made. If all portfolio loans are designated as 'Qualified Mortgages,' we would be able to make them."

John Snider, Shelby Savings Bank, Center, Texas

"In our area, we have witnessed a steady decline in the number of state licensed or certified appraisers, and have found ourselves having to engage appraisers from as far as 70 miles away from our offices, adding time to the financing process, and cost to the borrower. S. 2155 will allow us to better meet the needs of our applicants in a timely manner, and in a safe and sound fashion. "

Daniel C. Yates, Brattleboro Savings & Loan, Brattleboro, Vt.

"The Qualified Mortgage rule makes it difficult to lend to low-income individuals, small businesses, rural residents and recently retired/employed members of our community. S. 2155 would be a good start that enables community banks to lend and bank the underserved community."

Jennifer Luce, FirstBank, Lakewood, Colo.

"The CFPB has recently required additional data fields to be added to the HMDA data that must be collected and reported. Given the small number of HMDA loans that are made by community banks, some relief should be provided. Community banks are accountable to their communities, and having to collect over 100 individual pieces of data on each and every HMDA loan is not only illogical, it is intrusive to our customers."

Robert Barnes, CEO, PriorityOne Bank, Magee, Miss.

"TRID has really slowed down the home buying process for customers. Loans are taking longer to close and borrowers are losing the house of their dreams because of timing requirements. Letting borrowers waive the timing requirements of the 3-day closing disclosure at their discretion would really help the matter."

Gary Kuter, Capitol Bank, Madison, Wis.

Title II: Regulatory Relief and Protecting Consumers Access to Credit

- Simplifies capital calculations for community banks with less than $10 billion in assets.
- Helps well-run smaller banks raise stable funding by providing an exception for reciprocal deposits from FDIC restrictions on acceptance of brokered deposits.
- Exempts banks with less than $10 billion in assets from Volcker Rule requirements.
- Raises eligibility for short-form Call Reports from banks up to $1 billion in assets to banks with $5 billion in assets.
- Provides charter flexibility for federal thrifts with less than $20 billion in assets to operate with same powers and duties as national banks without being required to convert charters.
- Raises eligibility for use of the Fed's Small Bank Holding Company Policy Statement from $1 billion to banks with $3 billion in assets.
- Streamlines requirements for small public housing authorities operating in rural areas.
- Raises eligibility for the 18-month exam cycle from banks up to $1 billion in assets to banks with $3 billion in assets.
- Increases transparency and coordination between the National Association of Insurance Commissioners and regulatory bodies to encourage harmonization and a robust insurance market.
- Makes opening new accounts and engaging in transactions online easier.
- Streamlines Basel III's capital treatment of certain commercial real estate loans to make it easier for banks to invest in their communities.
- Fights synthetic identify fraud, which often targets children, by requiring the Social Security Administration to develop a way for financial institutions to instantly authenticate a credit applicant's identity.
- Requires the Treasury Department to report on the risks of cyber threats to financial institutions and the U.S. capital markets.

"Making us follow the same capital regulations as institutions with very complex balance sheets with significant exposure to off-balance sheet financial instruments does not add to the safety and soundness of the overall financial system."

Anonymous – community bank in Vermont

"Reduction in call reporting requirements, extension of examination time frames and changes to QM definitions for loans held on our balance sheets will give community bankers more time and resources to support the economic growth within the communities we serve and care about."

Mark Kappeler, NexTier Bank, Butler, Pa.

"As a federally chartered mutual savings and loan association, we are restricted by antiquated rules on the amount of non-real estate commercial loans that we can make under the Home Owners Loan Act. Because of that, we could in the near future have to restrict credit to commercial borrowers in our market. S. 2155 will fix that by allowing us to apply to be treated as a national bank, enabling credit to continue to flow to our small business customers."

George Hermann, Windsor Federal Savings, Windsor, Conn.

"S. 2155, with its expansion of the Small Bank Policy Statement to $3 billion, allows strong and safe mutual banks like ours to have access to additional capital on terms that only the biggest banks can get. Without additional affordable capital alternatives, our growth potential is choked off, which in turn limits our ability to make loans in Northeast Ohio."

Tom Fraser, First Federal Savings and Loan Association of Lakewood, Lakewood, Ohio

"We recently exceeded the $1 billion threshold thereby requiring 1st Security Bank to move from an 18-month exam cycle to a 12-month exam frequency, despite the fact that nothing changed in our risk profile. We had resisted growing over this level before as each exam requires significant in-depth reviews, resources and manpower, taking resources away from the business and costing us one month's worth of productivity. S. 2155 removes this perverse disincentive to grow, which will allow banks to lend more."

Matt Mullett, CFO, 1st Security Bank, Mountlake Terrace, Wash.

Title III: Protections for Veterans, Consumers and Homeowners

- Provides free placement and removal of security freezes on consumer credit reports.
- Excludes certain medical debt incurred by veterans from credit reports and provides free credit monitoring services for active duty veterans.
- Protects certain individuals, such as bank employees, from potential lability for the disclosure of suspected exploitation of a senior citizen to a regulatory or law-enforcement agency.
- Reinstates a federal requirement that allows renters to stay in a foreclosed property for at least 90 days or until their lease expires (under certain conditions).
- Authorizes the Treasury Department to use loan guarantees and credit enhancements as part of the Hardest Hit Fund to remediate lead and asbestos hazards in residential properties.
- Eliminates redundant programs and expand the educational opportunities offered through HUD's Family Self-Sufficiency Program.
- Requires that Property Assessed Clean Energy (PACE) loans must meet ability-to-repay standards through CFPB regulation.
- Requires the GAO to report on the supervision and regulation of consumer reporting agencies, including any gaps in authority of federal and state agencies.
- Protects veterans and taxpayers by preventing abuse of the VA's home loan program through predatory refinancing practices.
- Provides for Fannie Mae and Freddie Mac to accept alternatives to FICO scores when determining whether to purchase a residential mortgage.
- Extends foreclosure protections for military personnel after they leave service.

"The reality is that Dodd-Frank caused an enormous amount of collateral damage to small banks, small businesses, and consumers everywhere. That damage is why [S. 2155] would roll back the most costly regulations and requirements on the most vulnerable of banks…. Dodd-Frank has its virtues, but it also has many flaws. No one should be opposed to a sensible attempt to fix the latter."

Douglas Holtz-Eakin, American Action Forum, March 2018

"Small, healthy banks simply don't have the financial wherewithal to absorb the additional people, technology and consultants required to comply with so many new, complex regulations. If something isn't done to slow this trend, consumers and small businesses will lose a tremendous community resource.

"S. 2155 addresses a very small number of issues that only affect small banks. It won't solve all of the problems, but it's a small and meaningful step in the right direction."

Michael Rauh, Chelsea Groton Bank, Groton, Conn.

"This banking package is reasonable, balanced, and the result of thoughtful negotiation and compromise. It would take measured steps to encourage community financial institutions to boost lending and provide new protections for consumers. And it's an example of what we can achieve when we work together to break the gridlock in Washington."

Sen. Joe Donnelly (D-Ind.), Greater Fort Wayne Business Weekly op-ed, March 8, 2018

"Looking at the regulatory relief in the bill, it appears to give us the ability to get back to helping people 'build and maintain wealth' and letting people's hopes and dreams come true."

Jerry Catlett, Bruning State Bank, Bruning, Neb.

"The Economic Growth, Regulatory Relief, and Consumer Protection Act is a jobs bill, and it is a much needed solution for the folks who power our local economies."

Sen. Jon Tester (D-Mont.), March 2018

Title IV: Tailoring Regulations for Certain Bank Holding Companies

- Better calibrates enhanced supervisory resources of federal regulators by raising the threshold for designation as a systemically important financial institution from $50 billion to $250 billion in assets.
- Ends company-run stress tests for banks with under $250 billion in assets and allow federal regulators to design tailored supervisory stress tests for banks between $100 billion and $250 billion.
- Continues to allow the Fed to focus its resources on specific institutions by allowing higher regulatory standards to be imposed by the Fed on any bank holding company below $250 billion in assets, and clarifying that enhanced prudential standards remain in place for foreign banks with total consolidated assets of $100 billion or greater.
- Requires the banking agencies to specify that riskless funds of a custodial bank that are deposited with a central bank will not dilute a bank's capital when calculating the supplementary leverage ratio.
- Directs the FDIC, Fed and OCC to classify investment-grade municipal securities as high quality liquid assets under the Liquidity Coverage Ratio.

Title V: Encouraging Capital Formation

- Requires the SEC to report on the risks and benefits of algorithmic trading in the U.S. capital markets.
- Promotes employee ownership of closely held companies by requiring the SEC to increase, from $5 million to $10 million, the threshold for disclosures for securities sold in connection with compensation.

"I think [S. 2155] gives us the tools we need to continue to protect financial stability."

Federal Reserve Chairman Jerome Powell, March 1, 2018

"For a bank like mine, soon to have $40 billion in assets, the prospect of crossing the arbitrary asset threshold at $50 billion—which will trigger much greater expense and will be a significant drain on existing resources—is very troubling.

"The fact that we are growing means that we are successfully and effectively meeting the needs of our customers. Good business decisions should not be hijacked by arbitrary cutoffs that bear no relationship with danger to the financial system."

Charles Tuggle, EVP and general counsel, First Horizon National Corporation, Memphis

"I do believe it's appropriate to tailor regulations to the systemic footprint of a financial institution…. The legislation that's been proposed… is a move in a direction that would be good in enabling us to appropriately tailor our supervision."

Janet Yellen, then Federal Reserve Chairman, November 2017

"We're pleased that S. 2155 includes several provisions recommended by BPC's Financial Regulatory Reform Initiative, including raising the so-called 'bank-SIFI' threshold while providing regulators flexibility to designate especially risky institutions below that threshold.

"Adjusting this threshold will allow regulators to focus more resources on a smaller set of institutions that present the greatest potential systemic risk. The [bill] is a good starting point for preserving what has worked well in Dodd-Frank and building on the landmark financial reform law in areas where it has not worked well."

Bipartisan Policy Center, March 2018

Title VI: Protections for Student Borrowers

- Prevents lenders from declaring a student loan in default because a co-signer died or declared bankruptcy.
- Allows a seriously delinquent private student loan borrower to make a one-time request to a financial institution to remove negative reporting from their credit report after making a series of on-time payments.
- Establishes best practices for institutions of higher education regarding methods to teach financial literacy skills and assist students when making student borrowing decisions.

"This proposal makes targeted, commonsense fixes that will provide tangible relief to the community banks that are lifelines for smaller and rural communities. It also strengthens protections for veterans, the elderly and other consumers, and encourages community-based lending to boost economic growth and create jobs."

Sen. Mark Warner (D-Va.), November 2017

"Without jeopardizing the economy, without jeopardizing the security and soundness of the financial web we have in this country, we're going to get relief to Main Street bankers so they can get back into the business of relationship banking."

Sen. Heidi Heitkamp (D-N.D.), CNBC's Squawk Box, March 7, 2018

"The bottom line for banks like mine is that Dodd-Frank has imposed excessive and unnecessary rules and costs on the institution. That reality has made it much more difficult and expensive for our customers….

Much of the leadership for all local programs and projects in small communities comes from community bankers. It's not just hard dollar costs that are affected by new regulatory requirements; we don't have the time, or sponsorship funds, to put into the community efforts as we did in past years.

"There is absolutely no way today I could put the effort into my community that I have years ago and do all I need to do in the bank."

Debbie Rinehart, Farmers State Bank of Allen, Allen, Okla.