



Staff Visit to Washington Reinforces Support for Community Bank Positions

July 28-August 1, 2014

David Schroeder, CBAI's vice president federal governmental relations, was in Washington, D.C. last week and visited every office of the Illinois Congressional delegation, the Federal Housing Finance Agency (FHFA), and the Independent Community Bankers of America (ICBA) to discuss the critical issues which are vitally important to Illinois' community banks.

Summary Positions

Support community bank regulatory relief legislation

Support resolving the issue of too-big-to-fail (TBTF)

Support reining in Operation Choke Point

Oppose the expansionist agenda of the Farm Credit Administration's Farm Credit System lenders

Oppose expanded powers for credit unions

Support expanded CFPB definitions of "Rural and Underserved Areas"

Support reform of the housing GSEs without disadvantaging community banks

Support enhanced security for consumer data (data breaches)

Support for our positions on these major legislative and regulatory initiatives will allow community banks to encourage additional lending, fuel job creation, help create economic growth, and more fully serve their communities.

Detailed Positions

Support community bank regulatory relief legislation

The financial crisis clearly demonstrated that the material risks of Wall Street mega banks are very different from those of community banks, and they should not be treated the same way. The Dodd Frank Reform Act laid out a plan for applying separate supervision, capital, and liquidity requirements for the financial behemoths. In the Act, and elsewhere, tiered regulation has established a welcome and necessary beachhead. Now it is time to broaden that beachhead and ensure that every new banking law, rule and regulation clearly distinguishes and appropriately regulates community banks.

H.R. 1750 – The Community Lending Enhancement and Regulatory Relief Act’s (CLEAR Act) twelve provisions, drawn from the Independent Community Bankers of America’s *Plan for Prosperity*, will provide much needed tiered regulation and regulatory relief for community banks. The CLEAR Act contains the following provisions.

- Providing “qualified mortgage” status under the CFPB’s ability-to-repay rules for any mortgage originated and held in portfolio for at least three years by a lender with less than \$10 billion in assets.
- Exempting from any escrow requirements any first lien mortgage held by a lender with less than \$10 billion in assets.
- Exempting servicers that service 20,000 or fewer mortgages from certain new servicing rules.
- Providing an exemption from the independent appraisal requirement for mortgages of less than \$250,000.
- Providing that a financial institution is not required to provide an annual privacy notice to its customers if it has not changed its privacy policies (**House version only**).
- Exempting community banks with assets of less than \$10 billion (**\$1 billion in Senate version**) from the Sarbanes-Oxley 404(b) internal-controls assessment mandates. The exemption threshold would be adjusted annually to account for any growth in banking assets.
- Requiring the SEC to conduct a cost-benefit analysis of new or amended accounting principles (**House version only**)
- Requiring the Federal Reserve to revise the Small Bank Holding Company Policy Statement by increasing the qualifying asset threshold from \$500 million to \$5 billion.

The CLEAR Act in the House has 171 bipartisan cosponsors. **CBAI thanks House members Rodney Davis (R-13), Bill Enyart (D-12), Randy Hultgren (R-14), Mike Quigley (D-5),**

Adam Kinzinger (R-16), Bobby Rush (D-1), Aaron Schock (R-18), and John Shimkus (R-15) for cosponsoring this legislation.

S. 1349 – CLEAR Act legislation in the Senate has 38 bipartisan cosponsors. **CBAI thanks Senator Mark Kirk for being an original sponsor of this legislation in the Senate.**

H. R. 749 – Privacy Notice Act eliminates the requirement that financial institutions mail annual privacy notices when there has been no change in policies and practices with respect to disclosing nonpublic personal information. This legislation passed the House by voice vote on March 13, 2013. **CBAI thanks all members of the House for voting in favor of this legislation and we especially thank Cheri Bustos (D-17), Tammy Duckworth (D-8), Bill Enyart (D-12), Bill Foster (D-11), Randy Hultgren (R-14), Dan Lipinski (D-3), and Aaron Schock (R-18) for cosponsoring this legislation.**

S. 635 – Privacy Notice Modernization Act of 2013 in the Senate has 71 bipartisan cosponsors. **CBAI thanks both Illinois Senators Richard Durbin and Mark Kirk for cosponsoring this legislation in the Senate.**

H.R. 1553 – Financial Institutions Examination Fairness Act has 154 bipartisan cosponsors in the House. The Exam Fairness Act establishes examination standards including firm deadlines for exit interviews and receipt of examination results, and establishes a FFIEC Ombudsman separate from the prudential regulators. **CBAI thanks Cheri Bustos (D-17), Rodney Davis (R-13), Tammy Duckworth (D-8), Bill Enyart (D-12), Luis Gutierrez (D-4), Randy Hultgren (R-14), Adam Kinzinger (R-16), Dan Lipinski (D-3), Mike Quigley (D-5), Peter Roskam (R-6), Aaron Schock (R-18), and John Shimkus (R-15) for cosponsoring this legislation.**

S. 727 – Exam Fairness legislation in the Senate has 24 bipartisan cosponsors. **CBAI thanks Senator Mark Kirk for being a cosponsor of this legislation in the Senate.**

Support resolving the issue of too-big-to-fail (TBTF)

CBAI urges Congress and banking regulators to continue reforming our financial system and significantly reduce the probability and severity of a future financial crisis. The taxpayer bailout of big banks and financial firms must never happen again!

An unfortunate result of the financial crisis is that the largest banks have grown larger and remain candidates for bailouts. Today, the 10 largest banks (.2% of the nation's banks) control

77% of all bank assets compared to just 55% in 2002. The nation's 6,500 community banks represent only 12% of all bank assets.

Support for resolving too-big-to-fail is growing among banking regulators, a bipartisan group of legislators, and distinguished thought leaders. This chorus has been fueled by not only the taxpayer-funded bailouts of the mega banks but also by their numerous misdeeds.

No financial institution, its directors, officers, or employees should ever be too-big-to-manage, too-big-to-regulate, too-big-to-fail, too-big-to-prosecute, too-big-to-jail, and should certainly not be too-big-to-change.

Senator Sherrod Brown (D-OH) joined with Senator David Vitter (R-LA) in introducing the **Terminating Bailouts for Taxpayers Fairness Act of 2013 (S. 798). This legislation will help eliminate the threats posed by too-big-to-fail financial institutions with capital guidelines appropriately scaled to the size, scope and risks of the institutions, and offers much-needed regulatory relief to community banks. **CBAI thanks Senator Richard Durbin for taking a leadership position by co-sponsoring this legislation.****

Support reining in Operation Choke Point

Operation Choke Point is a U.S. Department of Justice (DOJ) - led effort with federal regulators designed to “choke-off” access to essential banking services to businesses engaged in fraudulent or illegal activities and to force them out of the marketplace. No one is interested in protecting illegal or fraudulent businesses but the scope of Operation Choke Point has grown to include politically controversial businesses. Community banks should have the ability to serve legal and legitimate businesses without undue pressure from law enforcement or bank examiners

H.R. 4986 – End Operation Choke Point Act of 2014 creates a safe harbor for financial institutions including community banks which promotes nondiscriminatory access to financial products, reins in the DOJ overaggressive subpoena authority, and promotes cooperation between banks and law enforcement authorities in directly prosecuting wrongdoers. This legislation has 12 bipartisan cosponsors in the House. **CBAI thanks Congressman Randy Hultgren (R-14) for cosponsoring this legislation.**

Oppose the expansionist agenda of the Farm Credit Administration's Farm Credit System lenders

CBAI opposes the expansionist agenda of the Farm Credit System (FCS) which has allowed FCS lenders to become the equivalent of commercial banks while retaining their Government

Sponsored Enterprise (GSE) status. FCS's funding and tax advantages constitute an unfair competitive advantage over rural community banks.

The \$247 billion asset Farm Credit System, if it were a bank, would be the 9th largest in the country. Although its' original mission was to serve small farmers and ranchers FCS lenders now compete directly with community banks for agriculture and nonagricultural businesses. CBAI calls for Congressional hearings on the Farm Credit System to investigate a pattern of noncompliance with its' original mission, nonagricultural lending including a participation in a \$12 billion loan to Verizon Communications, Inc. and a \$10 billion line of credit (free of charge) to the System's Insurance Corporation from an agency within the Department of Treasury.

The FCS lenders are able to take the largest and best loans from community banks because of their GSE competitive tax and funding advantage. These abusive practices must cease.

Oppose expanded powers for credit unions

The original credit union model has become outdated as they have long since strayed from their founding purpose of serving individuals of modest means and with a common bond. Their federal tax-exempt status, in exchange for serving their original mission, is clearly no longer justified. Their tax subsidy should be eliminated and all of them should pay their fair share.

Credit unions are seeking to expand their commercial lending powers by increasing the percentage of assets cap on member business lending (MBL) (H.R. 688 and S. 968). In addition, credit unions are seeking to raise capital from outside investors (H.R. 719), discarding their longstanding reliance on retained earnings. CBAI strongly opposes these credit union bills. **The only members of the Illinois delegation who are cosponsoring the MBL legislation are Cheri Bustos (D-17), Dan Lipinski (D-3) and Bobby Rush (D-1). This legislation unfortunately has 121 House cosponsors and 18 Senate cosponsors. No Illinois member of the House is cosponsoring the capital access legislation.**

Support expanded CFPB definitions of "Rural and Underserved Areas"

The CFPB recently issued an interim final rule implementing the Ability to Repay - Qualified Mortgage (QM) rules. During the rulemaking process the CFPB received significant feedback opposing their narrow definition of "rural and underserved areas" (i.e., areas where small lenders (community banks) can use more flexible loan underwriting guidelines).

CBAI supports an expanded definition of "rural areas" that will more accurately reflect the rural nature of all but a few Illinois counties. CBAI also supports a definition of "underserved areas"

which is not solely determined by the number of competitors, but also includes economically challenged areas including low-and-moderate-income census tracts, distressed and underserved nonmetropolitan middle income geographies, counties with high poverty rates, New Market Tax Credit eligible census tracts, high migration rural counties, and designated distressed areas by the Delta Regional Authority.

Consumers will benefit from the enhanced lending abilities of community banks in these communities.

Support reform of the housing GSEs without disadvantaging community banks

Community banks and our economy need an impartial secondary market for residential mortgages that is financially strong and reliable. CBAI supports reducing the government's footprint in the mortgage market and invites private capital to re-enter the market to limit taxpayer exposure to losses. While Fannie Mae and Freddie Mac may not survive in their current form, the financial crisis demonstrated the need for some type of government tie to the secondary market to ensure the continued flow of credit and market liquidity in times of economic stress. However, any catastrophic loss protection must be fully and explicitly priced into the government guarantee fee.

CBAI supports common sense reform of the housing GSEs that does not disrupt the recovering housing market and economic recovery. In restructuring the secondary housing market nothing should limit full participation by community banks.

- There must be open and equal access to all lenders, regardless of size or volume.
- Loan pricing must be on better terms than the largest mortgage originators in recognition of the superior quality of community bank mortgage loans.
- There must be no appropriation of customer data for the purpose of cross-selling financial services.
- Loan originators must have the option to retain servicing and servicing fees must be reasonable.

If the housing GSEs were to disappear and be replaced by the mega banks, consumer choice would be limited, systemic risks would be further concentrated, and community banks would become exposed to predatory pricing and cross selling tactics.

Also, the conflicting requirements of a public mission combined with private ownership were a primary cause of the mortgage meltdown and must be eliminated. The reformed secondary market entities must have a limited mission and focus solely on supporting residential and multifamily housing.

Support enhanced security for consumer data (data breaches)

Consumer data breaches at large retailers such as Target, Neiman Marcus, Michaels and Yahoo have shaken public confidence about the security of their confidential personal information. Community banks, however, effectively safeguard consumer data and have been working hard to protect their customers from the adverse consequences of recent data breaches.

CBAI urges Congress to ensure that when consumer information is compromised (a data breach), whether it is a retailer, data broker, financial institution or other entity, the responsible party should bear the resulting fraud losses and the complete costs of mitigation and restitution.

Community banks unfortunately bear the majority of fraud losses and reissuance costs from these breaches therefore there is insufficient incentive for retailers to act in the most responsible manner. Retailers must step up to the responsibility that comes along with handling confidential personal information. Allocating financial responsibility to the party that is best positioned to secure consumer data will provide a strong incentive to more effectively protect sensitive consumer data.

CBAI also calls for a single national standard to replace the patchwork of state laws on data security that fosters confusion and puts consumers at risk.

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