INDEPENDENT COMMUNITY BANKERS of AMERICA

Testimony
of
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Washington, DC

"Consideration of Regulatory Relief Proposals"

United States Senate
Committee on Banking, Housing, and Urban Affairs

March 1, 2006

Mr. Chairman, Ranking member Sarbanes and members of the committee, my name is Terry Jorde, President and CEO of CountryBank USA. I am also Chairman-Elect of the Independent Community Bankers of America.[1] My bank is located in Cando, North Dakota, a town of 1,300 people where the motto is, "You Can Do Better in Cando." CountryBank has 29 full time employees and $39 million in assets. We are a small, but diversified organization with ten of my employees working in our insurance agency, two employees devoted to retail sales of non-deposit investment products, and the remaining 16 devoted to traditional banking products and services. I split my time between two locations.

ICBA appreciates the opportunity to testify on the need to reduce the regulatory burden on banks, thrifts and credit unions, a topic this committee has been studying for some time. Community banks hope that Congress will complete action this year on legislation that will truly lift some of the extraordinary burden. We commend Senator Mike Crapo for taking the leadership role on this issue, working closely with Chairman Shelby. We have appreciated the opportunity to work with him on the many, many proposals that we and others have asked to be included in regulatory relief legislation.

Before discussing the topic of today's hearing, I want to take a moment to thank all the members of this committee for including deposit insurance reform in the recently enacted budget reconciliation bill. I want to extend special thanks to Senators Tim Johnson, Wayne Allard, Michael Enzi, and Chuck Hagel for their years of hard work in pushing deposit insurance reform in the Senate as well as to Chairman Shelby and Ranking Member Sarbanes for moving this bill to enactment this year. This new law is tremendously important in making FDIC insurance a more stable and fair system for community banks and for consumers. Importantly, the legislation will encourage depositors to keep their money in local banks where it can be lent out to build and support local communities.

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[1] The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to representing the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace. For more information, visit ICBA's website at www.icba.org.

Community Bankers Need Regulatory Relief

Last year, ICBA testified before this committee about community banks' need for relief from the severe regulatory burden that we face.[2] **Our testimony detailed the loss of market share suffered by community banks and pointed to a study by two economists at the Federal Reserve Bank of Dallas that concluded that the competitive position and future viability of small banks is questionable in large part due to the crushing regulatory burden we face.**[3]

While larger banks have hundreds or thousands of employees to throw into the regulatory breach, a community bank with $100 million in assets typically has just 30 full time employees, a $200 million bank about 60 employees. If my bank is faced with a new regulation, we must train one or more of our current employees, and complying with the new regulation will take time away from customer service. My compliance officer not only has responsibility for overseeing our compliance program, but she also originates around 60 real estate loans per year for sale on the secondary market, she sits on our audit and technology committee, she regularly teaches home-buyer education courses at our community college, and she baby sits my son at times like this when I'm begging for relief. Unlike larger institutions, we can't just add a new person and pass the costs on to our customers.

This disproportionate regulatory impact makes it difficult for community bankers to fulfill their central mission, to finance and support their local communities. Community bankers provide tremendous leadership in their communities, which is critical to economic development and community revitalization.

For example, in a typical week I may spend six hours in a hospital board meeting, four hours in an economic development corporation meeting, and another four hours working with other local community bankers to develop a financial incentive package for a potential new business in our community. You could argue that this is not an efficient and cost-effective way to spend my time, but like most community banks, the very survival of my bank and the economic vitality of my community depend on these activities. I have a very real incentive to work to assure the success of Cando. Branches of large mega banks do *not* provide this same commitment to the local community.

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[2] Testimony of David Hayes, President/CEO, Security Bank, Dyersburg, TN and Chairman of the Independent Community Bankers of America, June 21, 2005.
[3] Gunther and Moore, "Small Banks' Competitors Loom Large," *Southwest Economy,* Federal Reserve Bank of Dallas, Jan./Feb. 2004.

Legislation is Necessary

ICBA strongly supports the bank regulatory reduction project mandated by the Economic Growth and Paperwork Reduction Act of 1996 (EGRPRA). We commend the interagency EGRPRA task force, spearheaded by now-Office of Thrift Supervision Director John Reich, for the excellent job it has done to identify those banking regulations that are outdated, unnecessary or unduly burdensome. **While the bank regulators have been working hard to identify burdens they can reduce on their own, they report to us that there are severe limits on what they can do without help from Congress. Many burdensome and outdated regulatory requirements are hard-wired into federal statute.**

Communities First Act Provides Regulatory Relief

Senator Brownback's Communities First Act (S. 1568) grew out of that realization. **Many of the provisions of the Communities First Act build on the concept of a tiered regulatory and supervision system recommended by Director Reich by targeting relief to institutions based on their size. Other CFA provisions would apply to all banks, regardless of size.** All would go a long way toward improving community banks' ability to compete and serve local communities.

It is our commitment to our communities that led ICBA to work with Senator Brownback on the Communities First Act. That bill is co-sponsored by a member of this committee, Senator Chuck Hagel, as well Senators Roberts, Inhofe, and Coburn. It has put into legislative language proposals that ICBA made in our 2004 testimony before this committee.[4] These proposals are also included in Senator Crapo's comprehensive matrix of relief proposals.[5]

I can tell you from my meetings with community bankers throughout the country that they are very excited by the Communities First Act. **A total of 46 state banking trade associations have also endorsed CFA.** (List of endorsing associations attached.) It is a positive agenda for our members and their communities. We also recognize it is an ambitious agenda that will not be enacted all at once. Indeed, we are pleased that six of the fifteen provisions from the House companion bill (H.R. 2061) are included in the House's broad regulatory relief bill (H.R. 3505).

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[4] Testimony of Dale Leighty, President and Chairman, First National Bank of Las Animas, Las Animas, CO, and Chairman of the Independent Community Bankers of America, June 22, 2004

[5] In response to a request from the FDIC for Senator Crapo, who is working on a regulatory relief bill in the Senate, several bank industry trade associations including ICBA identified a list of 78 recommendations—made by various witnesses in testimony to the Senate Banking Committee—that the associations all support. While individual associations may also support additional recommendations not on this consensus list, virtually all of the regulatory provisions of the Communities First Act are on the list (items 101-120).

ICBA urges this committee to include as many provisions from the Communities First Act as possible in any new bill it drafts.

The following provisions from CFA are included in the House bill:

- ***Streamlining Call Reports*** *(H.R. 3505, Sec. 606; CFA, Sec. 204).* Calls on the agencies to reduce or eliminate the information required for reports of condition if the information is "no longer necessary or appropriate."

- ***Flexible Exam Schedule for Community Banks*** *(H.R. 3505, Sec. 607; CFA, Sec. 107).* Expands the eligibility for the 18-month exam cycle from banks under $250 million in assets to banks up to $1 billion.

- ***Short Form for Call Reports*** *(H.R. 3505, Sec. 608; CFA, Sec. 102).* Permits highly rated, well-capitalized banks with assets of $1 billion or less to file a short form quarterly Call Report in two of every four quarters.

- ***Changes to Small BHC Policy Statement*** *(H.R. 3505, Sec. 616; CFA, Sec. 104).* Requires the Federal Reserve to revise the Small Bank Holding Company Policy Statement on Assessment of Financial and Managerial Factors so that the policy applies to BHCs with assets of less than $1 billion that are not engaged in any nonbanking activities involving significant leverage and do not have a significant amount of outstanding debt. (The current policy applies to BHCs with assets under $150 million. Subsequent to introduction of CFA, the Federal Reserve proposed to increase the level to $500 million.)

- ***Exception to Annual Privacy Notice*** *(H.R. 3505, Sec. 617; CFA, Sec. 203).* Exempts a bank from the annual privacy notice requirement if the bank does not share customer information other than as permitted by one of the exceptions in the Gramm-Leach-Bliley Act, does not share information with affiliates under the Fair Credit Reporting Act, and has not changed its policies.

- ***Management Interlocks*** *(H.R 3505, Sec. 404; CFA, Sec. 105)*: Increases the size of the small depository institution exception under the Depository Institution Management Interlocks Act. (H.R. 3505, $100 million; CFA, $500 million).

The following section explains these provisions and the other bank regulatory provisions of the Communities First Act in more detail.

Reports of Condition (Call Reports) & BHC Policy Statement

Section 102 of the Communities First Act would permit highly rated, well-capitalized banks with assets of $1 billion or less to file a short quarterly call report form in two quarters of each year. This would reduce the reporting burden for these banks, while still providing the banking agencies with the data they need.

Section 204 would benefit all banks by directing the agencies to reduce or eliminate filings that are not outweighed by the benefits to safety and soundness or the ability of the FDIC and other regulators to accurately determine the financial condition and operations of the reporting institutions. ICBA believes that this Congressional directive would help reverse the repeated increases in the reporting burden imposed when agency economists and financial analysts seek to add “just one or two more” items to the call reports. While many of these items provide interesting information, we question whether private companies – banks – should have to provide non-essential information under threat of government sanction.

The current call report instructions and schedules consist of 458 pages. While extensive and time consuming to produce, the detail required in the quarterly filings by community banks are not essential to the agencies. The fact is that in most community banks, the world just doesn’t change that dramatically between March 31st and June 30th of each year. The FDIC will not lose track of us if every other time we file a short-form call report instead of the extensive report. And, the Federal Reserve will still be able to conduct monetary policy without our real time data. On the other hand, this would significantly reduce the reporting burden for banks like mine, while still providing the banking agencies with the data they need.

Section 104 of the Communities First Act would direct the Federal Reserve to make bank holding companies with assets up to $1 billion eligible for the Small Bank Holding Company Policy Statement on Assessment of Financial and Managerial Factors. To qualify, the holding company must also (1) not be engaged in any non-banking activities involving significant leverage, and (2) not have a significant amount of outstanding debt that is held by the general public. This change would reduce the paperwork burden on these small, non-complex, holding companies, while maintaining the Federal Reserve’s ability to obtain holding company information for larger institutions. (As indicated above, the Federal Reserve could soon increase this level to $500 million.)

The banking industry has included each of these recommendations as consensus items on the list for Senator Crapo.

Examination Schedules

Section 107 of the Communities First Act would give federal regulators flexibility to determine the examination interval for well-rated, well-capitalized banks with up to $1 billion in assets. This would replace the current 18-month exam schedule for banks with less than $250 million in assets. The banking industry supported this as a consensus recommendation.

Section 110 would increase CRA examination intervals for banks up to $1 billion.[6]

Both of these changes would help strong, well-run community banks focus on service to their communities rather than responding to unnecessarily frequent examinations.

Let me explain how this would bring about regulatory relief for a typical community bank. In the past, the burden of a bank examination consisted primarily of bank examiners being in the bank for 2-3 weeks asking bank employees questions throughout the day and sifting through credit files. However, most bankers will tell you that the burden begins long before the examiners come on site. When I first started in banking, examiners would just show up one day unannounced. Today, most banks receive notice of a bank examination at least two months in advance of the examiner walking through the door. This is because of the massive amount of information and documentation that they want mailed to them before the exam.

In my bank it takes five or six of us nearly a month to prepare and send the information to the examiners. That means that a bank on a 12-month exam cycle is spending 40 weeks in a ten-year period just getting ready for the exam and another 20-30 weeks in the actual examination. If we could extend the exam interval just six months for a well-capitalized bank, that would literally save the typical bank 23 weeks every 10 years. If you multiply that by the 8,500 banks in our country, we are talking about 195,500 weeks! The cost savings and economic implications are enormous.

Privacy Notices

One of the most wasteful provisions of the Gramm-Leach-Bliley Act has been the requirement that financial institutions send annual privacy notices to their customers. The law requires them to be written in impossible-to-understand legalese. The industry and agencies have been working on ways to simplify this language, but the task is daunting. However, **section 203 of the Communities**

[6] It is important to note that this examination interval is a separate issue from the question of examination procedures for banks under $1 billion in assets. The regulatory agencies have already adopted, or have proposed adopting those streamlined procedures.

First Act offers a measure that would greatly reduce the number of these notices that must be mailed. It simply says that if an institution does not share information (except for narrow purposes, such as providing information to an outside data processing firm) and has not changed its policies, it need not send out the annual notices. While any size institution could take advantage of this provision, community bankers are especially interested in having this option. I can tell you that my customers and their trash collectors would also be grateful.

Like virtually all of the regulatory provisions of the Communities First Act, this section is a banking industry consensus item.

Director Interlocks and Loans to Officers

Section 105 of the Communities First Act increases the size of banks eligible for an exemption from interlocking director prohibitions from $20 million to $500 million. It has always been a challenge for the smallest institutions to find qualified directors. Now that directors' responsibilities have increased under the Sarbanes-Oxley Act and other requirements, this has become a challenge even for larger community banks.

Section 108 of the Communities First Act allows banks with less than $1 billion in total assets to make loans to executive officers, in the aggregate, up to two times capital. The current asset size limit is $100 million in deposits. This is not a tenfold increase, because a bank with $1 billion in assets could have considerably less than that in deposit liabilities.

Section 205 would help all banks by increasing the special regulatory lending limit on loans to executive officers for loans other than those for housing, education, and certain secured loans to $250,000.[7] This limit has not been adjusted in over a decade, so this amendment simply makes an appropriate adjustment for inflation.

These adjustments are all included in the banking industry's consensus recommendations to Senator Crapo.

Protection for Community Banks under SIPC

The Securities Investor Protection Act does not provide immediate protection to community banks that suffer losses when a securities firm fails. Current law exempts commercial banks from SIPC coverage and assumes that all commercial banks are in a position to fend for themselves in such cases. This may be true for large commercial banks, but it is less so for community banks.

[7] Executive officers would remain subject to the same limit on directors and principal shareholders, the loans-to-one-borrower limit, and to the requirement that loans to insiders not be on preferential terms

Section 106 of the Communities First Act would provide banks with assets up to $5 billion the same protection afforded other investors and other depository institutions (thrift institutions and credit unions) for their brokerage account assets under the SIPA.

This is included in the banking industry's consensus recommendations to Senator Crapo.

Impact of New Regulations on Community Banks

Neither we—nor you—can anticipate all of the potential new burdens that future laws and regulations may impose on community banks. Therefore, **section 109 of the Communities First Act directs the banking agencies to take into account the effect any new regulation, requirement, or guideline would have on community banks.** This sends a clear message from Congress to the agencies that the public policy of the United States is firmly committed to maintaining a strong, vibrant, community bank sector for our economy.

Sarbanes-Oxley Act, Section 404

Section 404 of Sarbanes-Oxley imposes tremendous unexpected costs on virtually all companies. A recent ICBA survey showed that – including outside audit fees, consulting fees, software costs and vendor costs – the average community bank will spend more than $200,000 and devote over 2,000 internal staff hours to comply with the internal control attestation requirements of Section 404.

Section 103 of the Communities First Act recognizes that these added costs are unnecessary for community banks. First, unlike other companies, banks have been under similar requirements for years, though with an exemption for community banks.[8] Congress imposed these requirements on banks after the crises of the 1980s. So, section 404 is redundant when imposed on the banking sector. Second, unlike other companies, **banks are closely supervised and examined by federal officials on a regular basis. The adequacy of their internal controls is assessed by bank examiners as part of the safety and soundness exams.** Companies like Enron and WorldCom were not regulated the same way. Not only is this burden redundant and unnecessary for community banks, it is a key factor in undermining their ability to remain independent.

[8] The FDIC recently increased the exemption level from $500 million to $1 billion to reduce the regulatory burden.

The banking industry has also agreed that this proposal is a consensus item on the list for Senator Crapo.

Truth in Lending Right of Rescission

Section 201 of the Communities First Act calls for several changes that would expedite consumers' access to their funds without undermining the protection that the 3-day right of rescission provides. They would apply without regard to the size of the institution involved.

Subsection (a) directs the Federal Reserve to provide exemptions when the lender is a federally insured depository institution. The right of rescission was imposed to protect consumers against high-pressure loan sellers often connected with illicit home improvement operations or similar schemes. The loan programs of federally insured institutions are, obviously, run on a far different basis and are subject to regular scrutiny by banking regulators. Our customers know exactly what they have applied for and are receiving. They are frequently puzzled and annoyed when they hear they have to wait an additional three days for their funds.

Subsection (b) addresses another source of annoyance for consumers, the fact that borrowers have to wait three days to get the benefit of a refinancing transaction even if they are not taking any cash out of the deal. It makes no sense to insist that a consumer wait to begin taking advantage of a lower interest rate or different term, which are the typical purposes of these kinds of transactions.

Finally, subsection (c) eliminates the right of rescission when a borrower is opening up an open-ended line of credit. The very design of the product grants consumers a perpetual right of rescission if that is what they want. The consumer can simply refrain from drawing on the account for three days or longer. On the other hand, consumers who need immediate access to their line of credit should have it.

The banking industry has included the provisions of section 201 in its consensus recommendations.

Home Mortgage Disclosure Act

The Communities First Act would make several changes to the Home Mortgage Disclosure Act. **Section 101 would increase two reporting exemption levels from $30 million and $34 million[9] in assets to $250 million.** While this may appear to be a substantial increase, the vast majority of industry assets would remain covered. In fact, the FDIC reports that as of March 31, 2004, banks and

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[9] The $34 million began as a $10 million exemption, but has been increased by statute and by the Federal Reserve using an inflation-based index.

thrifts with $250 million or less in assets held only 6.7% of industry assets. The amendment would index the $250 million level using the existing procedure in HMDA.

Title II of H.R. 2061 makes several additional changes in HMDA that could apply to a bank of any size, depending on its activity or location. **Section 202 would exempt banks with fewer than 100 reportable loan applications per year per category. This would lift the burden from banks for which mortgage lending is not a major business line.**

Banks that operate outside Metropolitan Statistical Areas are exempt from HMDA. Section 202 would also allow the Federal Reserve to develop a definition of Metropolitan Statistical Area for HMDA purposes, instead of using Census Bureau definition created for entirely different reasons. Current law requires the use of the Census Bureau definition, so certain areas that are truly rural are often included in metropolitan statistical areas. This may serve the purposes of the Census Bureau, but the Federal Reserve should have the flexibility to modify these definitions when determining which areas must be covered by HMDA. This would avoid unnecessarily covering certain rural banks that are relatively close to metropolitan areas.

Finally, **section 202 would benefit all banks that must continue to report HMDA data by requiring the Federal Reserve to review and streamline the data collection and reporting requirements every five years.**

It is important to note that the banking industry has included each of these HMDA provisions on its list of consensus items for inclusion in a regulatory relief bill in its response to Senator Crapo.

Bank Secrecy Act Compliance

The nation's community banks are committed to supporting the federal government's efforts to prevent our institutions from being used for money laundering, terrorist financing and other fraudulent activities. However, ICBA also believes that it is critical that resources be focused where the risks are greatest. Over the years, there has been a tendency to require reports that have little value for law enforcement but that clog the system and obscure the truly suspicious activities. In addition, bankers across the country continue to identify the Bank Secrecy Act as one of the most burdensome areas of compliance.

ICBA appreciates the efforts by Congress to bring greater focus to the many reports required under the Bank Secrecy Act. Elements of Title VII of H.R. 3505 are a helpful step in the right direction and we look forward to continuing to work with Congress, the Treasury and the banking agencies to achieve an effective compliance regime that directs resources of banks, regulators and law enforcement agencies where it can do the most good.

ICBA supports section 701 of H. R. 3505 that would allow banks to exempt seasoned customers from currency transaction reports without being required to renew the exemption annually. Past efforts to increase the use of the current exemption process have not succeeded, despite years of efforts by interested parties, including industry representatives, regulators and law enforcement. In fact, ICBA is represented on a Treasury committee that has been seeking solutions to this problem. Therefore, ICBA supports Congress taking this step since it has the potential to eliminate many unnecessary reports. However, for this provision to succeed, it will be important that Treasury establish an appropriate definition for qualified customers, and ICBA looks forward to working with Treasury on this definition.

Fundamentally, ICBA believes that a simple across-the-board increase in the dollar threshold for currency transaction reports – a level that has not changed since the Bank Secrecy Act was first adopted over 35 years ago – would be easier to apply. However, we also recognize that law enforcement agencies are concerned that such a change might eliminate valuable information for detecting and prosecuting criminal activities. However, it would be helpful if banks and other financial institutions had better information from law enforcement. Under section 314 of the USA PATRIOT Act, Congress adopted a provision designed to encourage law enforcement agencies to enhance their communications efforts with financial institutions to help them focus resources on those risks that present the greatest threats of money laundering and terrorist financing. ICBA encourages Congress to continue to take steps to ensure that this information is provided by law enforcement agencies. If law enforcement agencies provide regular reports to the industry, it will help us focus resources where they are most appropriate.

ICBA supports several other provisions in H. R. 3505 that would help alleviate the regulatory burden facing community banks. Section 702 would require the banking agencies and Treasury to develop uniform BSA regulations and examination requirements. In the fall of 2004, the banking agencies and Treasury entered into a Memorandum of Understanding that was, in part, designed to achieve such a goal. Last June, after unprecedented interagency cooperation, the agencies issued a single Bank Secrecy Act/Anti-Money Laundering Examination Manual. ICBA strongly applauds these efforts, and appreciates the opportunity to have played a part. Section 702 would codify the steps that have already been taken and therefore ICBA supports it. Section 702 would also require the development of "a clear policy statement on appropriate processes for resolving examiner-institution disagreements." Again, this is a step that ICBA strongly supports.

Inconsistencies between agencies or differing interpretations about the same regulatory requirement increase regulatory burden. Section 702 would require the Secretary of the Treasury to assess potential inconsistencies or redundancies among the various BSA regulations. Since eliminating these inconsistencies can help reduce regulatory burden, ICBA also supports this provision.

In recent years, there has been confusion about what and how much information should be reported to bank boards of directors about the suspicious activity reports that banks file with the federal government. Section 703 would require the Treasury to review these requirements and make appropriate recommendations. ICBA has been working closely with a subcommittee of Treasury's Bank Secrecy Act Advisory Group on this issue and ICBA believes this provision would enhance its work.

ICBA also supports provisions in H. R. 3505 that would require Treasury to assess and eliminate unnecessary customer identification requirements for the purchase of monetary instruments, assess ways to eliminate recurring suspicious activity reports, and improve the current system for electronic filing of BSA reports. ICBA also supports language that would express the sense of Congress that encourage banks to provide financial services to money services businesses and require Treasury to provide banks with information about money laundering and terrorist financing in other markets. ICBA encourages Congress to continue to monitor progress in all these areas.

In closing, ICBA wants to congratulate the former director of Treasury's Financial Crimes Enforcement Network, Bill Fox, for his excellent outreach efforts to the banking industry, especially the nation's community banks. Bill's tireless efforts helped bring about many improvements in the current BSA compliance regime. We look forward to working with the new director of FinCEN, Bob Werner, to continue the successful collaboration between community banks, banking regulators and law enforcement to develop an effective and efficient BSA system.

ICBA Opposes Expansion of Activities for Industrial Loan Companies and Credit Unions

ICBA strongly believes that "regulatory relief" legislation must not become a vehicle to expand new activities for industrial loan companies and credit unions. We urge that the committee reject proposals that would provide broad interstate branching powers and new business checking powers for ILCs. We also urge you to reject proposals to increase the tax-exempt credit unions' business lending powers and reduce their capital requirements.

Both ILCs and credit unions already have unfair regulatory and tax advantages over community banks. Commercial companies may own ILCs and ILC holding companies are not subject to consolidated supervision by the Federal Reserve.

Credit union profits are exempt from taxation and credit unions are not subject to the Community Reinvestment Act.

In addition, ILCs pose unique safety and soundness risks, as well as conflicts of interest by mixing banking with commerce. Both Federal Reserve Chairmen Greenspan and Bernanke have highlighted these risks and have urged Congress to close the ILC loophole.

In a particularly strange twist, credit union groups in California and Utah have applied to acquire or establish ILCs. These combinations would allow credit unions to expand their reach beyond any conceivable common bond restriction.

Congress should promptly redress these imbalances in the nation's financial system. In the context of regulatory burden relief legislation, we urge you to – at a minimum – refrain from exacerbating them.

Banks Not Positioned to Prevent Internet Gambling

At the same time that this committee is carefully considering proposals to <u>reduce</u> unnecessary regulatory burden, some in Congress are seriously considering ones to <u>increase</u> that burden. These are bills that would make illegal some forms of gambling on the Internet. As a key enforcement mechanism, they would require banks and others to attempt to prevent payments to gambling companies on behalf of bank customers. **While we share concerns about Internet gambling, it is highly doubtful that such legislation, if passed, would have any meaningful effect on the amount of gambling on the Internet.** Credit card issuers have already raised substantial roadblocks that prevent payments directly to gambling sites. In response, these sites have devised effective ways to get around these roadblocks. In most cases a gambler will establish an account with a non-bank payment company, which will make payments to gambling companies on behalf of the gambler. In such cases, the gambler may actually provide funds to the payment company from his checking or credit card account <u>before</u> doing any gambling at all.

So, while the pending legislation would likely be ineffective, it would impose an additional burden on community banks. They would have to adopt formal procedures to attempt to comply with the new requirements. Even if they actually failed to block any transactions, community banks would have to bear training and monitoring costs. These banks already bear a considerable burden in complying with attempts to prevent money laundering and terrorist financing. These efforts should not be diverted by ineffectual attempts to block gambling.

ICBA urges Congress to reject proposals to use the banking system to restrict Internet gambling unless they have some reasonable chance of being effective and will not add to the tremendous burden on community banks. The proposals that we have seen so far do not come close to meeting this test. Congress should not pass legislation that claims to "do good" without effectively (and efficiently) restricting bad behavior or encouraging positive action.

Conclusion

ICBA appreciates this committee's commitment to moving legislation that would reduce the regulatory burden on community banks. I believe that the tremendous weight of over-regulation is crushing the banking system and is rapidly driving the consolidation of our industry.

Most regulations probably had a well thought out purpose when they were originated, but it's been said, "no single raindrop feels it is responsible for the resulting flood." Community banks in particular face a disproportionate impact and we need substantial relief before we are washed away. On behalf of my community bank and the nearly 5,000 members of the Independent Community Bankers of America that I represent today, I ask you to remember this as you consider legislation and regulatory relief for our industry. Thank you.

Attachment:
State Associations Endorsing the Communities First Act

State Associations Endorsing the Communities First Act :

The Community Bankers Association of Alabama
Arkansas Community Bankers
California Independent Bankers
Independent Bankers of Colorado
Florida Bankers Association
Community Bankers Association of Georgia
Community Bankers Association of Illinois
Community Bankers Association of Indiana
Iowa Bankers Association
Iowa Independent Bankers
Community Bankers Association of Kansas
Kansas Bankers Association
Heartland Community Bankers Association
Bluegrass Bankers Association (BBA) in Kentucky
Community Bankers of Louisiana
Maine Association of Community Banks
Michigan Association of Community Bankers
Minnesota Bankers Association
Independent Community Bankers of Minnesota
Missouri Bankers Association
Missouri Independent Bankers Association
Montana Bankers Association
Montana Independent Bankers
Nebraska Bankers Association
Nebraska Independent Community Bankers
Community Bankers Association of New Hampshire
Independent Community Bankers Association of New Mexico
Independent Bankers Association of New York
North Carolina Bankers Association
Independent Community Banks of North Dakota
North Dakota Bankers Association
Community Bankers Association of Ohio
Community Bankers Association of Oklahoma
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Association of Community Bankers
Independent Banks of South Carolina
Independent Community Bankers of South Dakota
Independent Bankers Division/ Tennessee Bankers Association
Tennessee Bankers Association
Independent Bankers Association of Texas
Texas Bankers Association
Virginia Association of Community Banks
Washington Independent Community Bankers Association
West Virginia Association of Community Bankers
Community Bankers of Wisconsin

Bankers Bank Council