American Bankers Association
Building Success. Together.

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The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Speaker Ryan and Minority Leader Pelosi:

On behalf of the members of the American Bankers Association (ABA), I am writing to express our strong support for S. 2155, the Economic Growth, Regulatory Relief and Consumer Protection Act, which is scheduled for consideration in the House of Representatives in the coming days. We appreciate the opportunity to weigh in on this legislation as it will enhance the ability of many of our nation's financial institutions to better serve their customers and communities.

First, we would like to commend Chairman Jeb Hensarling and members of the House Financial Services Committee for their diligent work over many years to pass meaningful regulatory reform legislation. S. 2155 represents their work as it contains several bipartisan bills crafted and approved in the House.

ABA believes that this legislation will address some significant issues stemming from the thousands of pages of new regulations that have been imposed on banks in the past ten years. These rules have been particularly hard for community banks to absorb and have been an enormous driver of their decisions to sell or to merge. There simply is not enough capacity at smaller organizations to analyze the ever-expanding rule set; implement, train, and test for compliance with those that apply; and still have the time and resources to meet with individuals and businesses about their financial needs. S. 2155 amounts to a right-sizing of financial rules for these smaller institutions to best serve their customers and communities without compromising safety and soundness.

Qualified Mortgage Status for Portfolio Loans. This legislation contains many provisions that ABA and our members banks have long supported. Among them is one that would provide "qualified mortgage" legal status to residential mortgage loans that a community bank holds in its portfolio. Portfolio lending is among the most traditional lending practices in which a bank can engage. Loans held in portfolio are well underwritten and conservative by their very nature. They must be for the safety and soundness of the bank, since a bank carries all of the credit and interest rate risk of a loan held in portfolio until it is repaid.

Existing mortgage rules, especially those governing "ability to repay" and "qualified mortgage" status under the Truth in Lending Act, are very restrictive and have made it difficult – and in some cases impossible – for banks to make loans to creditworthy borrowers who don't fit the government's criteria. S. 2155's QM provision, like others contained in the legislation, originated and passed the House by voice vote.

Volcker Rule Relief for Community Banks. Title II of the bill contains several ABA-supported and House passed provisions, including relief for community banks from unnecessary Volcker Rule restrictions. We believe this is an important first step in recalibrating the rule for smaller banks whose trading and investment activities do not pose the systemic risks that the Volcker Rule was intended to address.

Other Previously House-Passed Provisions. S. 2155 also includes a multitude of House-passed regulatory reform provisions aimed at the nation's smaller financial institutions, such as: allowing highly-rated banks to file short-form call reports; offering savings associations charter flexibility, allowing them to adapt their business models to the changing demographics and needs of their communities; enabling more banks and thrifts to qualify for the relief offered under the Federal Reserve's small bank holding company policy statement; exempting small banks from complex capital and regulatory guidelines that do not provide materially more safety and soundness protection; and extending the 18-month examination cycle to save both banks and regulators time and resources. The bill also facilitates opening online accounts, which will help all institutions be responsive to the financial needs of their communities.

More Tailored Regulation. There is broad support, including from current and former regulators, for revisiting the asset threshold that triggers enhanced prudential standards. ABA strongly supports replacing this and other thresholds with tailored regulation. S. 2155 continues to rely on arbitrary asset thresholds rather than adopting a risk-based approach to reform. We believe increasing the threshold is one step in the ongoing process of moving beyond one-size-fits-all regulation to more nuanced, tailored supervision. ABA will continue to advocate strongly for a regulatory approach tailored to a bank's business model and risk profile, rather than asset size, and we urge policymakers to take additional steps to tailor regulation.

Mischaracterized HMDA Provision. One provision that has been mischaracterized relates to the filing of Home Mortgage Disclosure Act (HMDA) data. First andforemost, S. 2155 does not change fair lending laws; any bank found to be violating fair lending laws will face legal consequences. All HMDA-reporting banks (including small banks) will continue to report all HMDA data points required of all banks as of the end of 2017, and that data will be analyzed for fair lending compliance. Only new data points added as of 2018 will be affected.

Under S. 2155, community banks that have a small portfolio of home loans (meaning they have originated fewer than 500 mortgage loans annually in each of the last two years) will be relieved from reporting a recently expanded set of data on mortgage lending that went into effect January 1st of this year. HMDA reporting requirements for smaller banks will remain the same as they've been for more than a decade, including 23 unique data fields for each and every home applicant. This change will simply ease one of the most significant compliance burdens on smaller institutions. It will also allow those banks to focus more time serving their communities rather than filling out compliance forms. Regulators will still have all the same information they had previously to assess whether smaller financial institutions are complying with the nation's fair lending laws, while lenders making more than 500 mortgage loans annually will be required to provide the expanded information. The bill does nothing to change the fact that bank examiners will continue to have full access to every loan file to carefully assess whether illegal discrimination has taken place, just as they always have. Additionally, the relief from expanded data submission also only applies to banks that score well on their Community Reinvestment Act (CRA) exams. Under this new safeguard, only small institutions in full compliance will qualify.

Small banks are the most burdened by over-regulation and the most likely to leave the mortgage market due to compliance burden. Relieving some reporting requirements will keep more banks in the mortgage market, providing local lending options for borrowers. On balance, keeping these lenders in the market while reducing additional HMDA reporting helps, rather than harms, borrowers.

ABA is pleased that the House is considering this bipartisan legislation. We strongly believe the bill's many meaningful reforms will help financial institutions serve their customers and grow our economy.

We urge members to continue their bipartisan work on regulatory reform by supporting this strongly bipartisan piece of legislation, S. 2155.

Sincerely,

Bob Nichols

cc: Members of the U.S. House of Representatives