Testimony of

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On behalf of the

Independent Community Bankers of America

Before the

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

Hearing on

"Examining the State of Small Depository Institutions"

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Washington, D.C.

Chairman Johnson, Ranking Member Crapo, and members of the Committee, my name is John H. Buhrmaster, and I am President and CEO of First National Bank of Scotia, a $425 million asset bank in Scotia, New York. I am also Chairman of the Independent Community Bankers of America and testify today on behalf of more than 6,500 community banks nationwide. Thank you for convening this hearing on "Examining the State of Small Depository Institutions."

From my vantage point as Chairman of ICBA, based on discussions with hundreds of community bankers from across the country, the state of the industry is resilient and gaining strength in the wake of an historic financial crisis. My personal assessment is confirmed by the most recent FDIC Quarterly Banking Profile. Community bank net income is up 3.5 percent from a year ago. Loan growth, at 7.6 percent over the past year, outpaced the industry as a whole. More community banks are profitable, asset quality has improved, and there are fewer problem banks.[1]

However, in a historically low interest rate environment, community banks continue to struggle with low margins, and the pace of consolidation and dearth of new charters has the potential to reshape the industry to the detriment of rural areas and smaller communities. Of particular concern is an onerous regulatory burden that is growing both in volume and complexity, suffocating the true potential of community banks to spur economic growth and job creation in their communities. We look to this Committee and the Senate to address these genuine concerns. Even in the short time remaining in the 113th Congress, there is a real opportunity to provide meaningful relief for community banks. As addressed in this testimony, a number of important financial services bills with broad, bipartisan support are poised for final action. ICBA urges the Senate Banking Committee to act with all due haste before this opportunity is lost.

America's community banks are critical to the prosperity of the U.S. economy, particularly in small and rural communities. As the FDIC Community Banking Study showed, in one out of every five counties in the United States, the only physical banking offices are those operated by community banks.[2] Providing 60 percent of all small business loans under $1 million, as well as customized mortgage and consumer loans suited to the unique characteristics of their local communities, community banks are playing a vital role in ensuring the economic recovery is robust and broad-based, reaching communities of all sizes and in every region of the country. First National Bank of Scotia serves rural and suburban communities in the area of Albany, Schenectady, and Saratoga in upstate New York. We are a closely-held bank, employing 140 people and offering a full range of traditional banking services. First National Bank of Scotia has served these communities since 1923 and I'm a fourth generation community banker. On a personal note, I'm committed to spreading financial literacy through our schools and at all levels. I hope to inspire other community bankers to do so as well. Our story, our culture of relationship banking, and the role we play in our communities are typical of thousands of community banks.

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[1] FDIC Quarterly Banking Profile. Second Quarter 2014.
[2] FDIC Community Banking Study. December 2012.

Tiered Regulation is Needed

ICBA's legislative and regulatory agenda is built on the principle of tiered regulation. Regulation should be calibrated according to institutional size, business model, and risk profile. Appropriate tiering will allow community banks to reach their full potential as catalysts for entrepreneurship, economic growth, and job creation, without jeopardizing safety and soundness or consumer protection. ICBA fully endorses comments made by Federal Reserve Governor Daniel Tarullo before this Committee just last week. With regard to small and mid-sized banks, Governor Tarullo said: "It may be time to consider raising some thresholds or eliminating altogether the application of some Dodd-Frank provisions for them."[3]

Working with community bankers from across the nation, ICBA developed its Plan for Prosperity, a platform of legislative recommendations designed to provide meaningful relief for community banks and allow them to thrive by doing what they do best – serving and growing their communities. By rebalancing unsustainable regulatory burden, the Plan will ensure scarce capital and labor resources are used productively, not sunk into unnecessary compliance costs, allowing community banks to better focus on lending and investing to directly improve the quality of life in our communities. The Plan for Prosperity is attached to this testimony.

The CLEAR Relief Act (S. 1349)

The current Senate bill that best captures the scope of the Plan for Prosperity and does the most to advance the principle of tiered regulation is the Community Lending Enhancement and Regulatory Relief Act of 2013 (the "CLEAR Relief Act" (S. 1349)), sponsored by Sens. Jerry Moran (R-KS), Jon Tester (D-MT), and Mark Kirk (R-IL). We are very pleased S. 1349 has attracted the support of 40 cosponsors to date. The bipartisan mix and political range of the cosponsors – spanning the full width of the political spectrum – is testimony the provisions of the bill represent a set of genuinely consensus solutions to ensure continued access to consumer credit and other banking services. The House counterpart bill, H.R. 1750, has more than 170 cosponsors with a similar bipartisan composition. We are grateful to the members of this committee that have sponsored and cosponsored S. 1349.

S. 1349 contains four provisions. The bill would:

- Provide "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.
- Exempt from any escrow requirements any first lien mortgage held in portfolio by a lender with less than $10 billion in assets.
- Exempt community banks with assets of less than $1 billion from the Sarbanes-Oxley 404(b) internal-controls assessment mandates. The exemption

[3] The Wall Street Journal. Money Beat Blog. September 9, 2014.

threshold would be adjusted annually to account for any growth in banking assets.

- Require the Federal Reserve to revise the Small Bank Holding Company Policy Statement by increasing the qualifying asset threshold from $500 million to $5 billion.

Each of these provisions was crafted to provide meaningful, targeted regulatory relief while preserving and strengthening consumer protections and safety and soundness.

Mortgage Lending

The first two provisions relate to mortgage lending. The principal rationale for both of these provisions, and the reason they can be safely enacted, is they apply only to loans originated and held in portfolio by community banks. QM defines mortgages that are either "conclusively" or "presumptively" deemed to comply with the Dodd-Frank Act "ability-to-repay" requirements. As relationship lenders, community bankers are in the business of knowing their borrowers and assessing their ability to repay a loan. What's more, when a community bank holds a loan in portfolio it holds 100 percent of the credit risk and has an overriding incentive to ensure the loan is well underwritten and affordable to the borrower. In a typical community bank portfolio, even a small number of defaults can put a bank at risk. Community bank portfolio lenders ensure they understand the borrower's financial condition and structure the loan accordingly. If the borrower has trouble making payments due to job loss or other unforeseen circumstances, a community bank portfolio lender will work with the borrower to restructure the loan and keep the borrower in their home. By the same token, portfolio lenders will protect their collateral by ensuring borrowers remain current on tax and insurance payments. For this reason, the escrow requirement, which must be outsourced at a relatively high cost by community banks with a low volume of mortgages, is an unnecessary burden when a loan is held in portfolio.

Compelling anecdotal evidence, confirmed by a recent empirical survey of community bankers conducted by the Mercatus Center demonstrates that mortgage rules that became effective in 2014, including the ability-to-repay and escrow rules, will have a significant impact on community bank mortgage availability.[4] According to the Mercatus Center survey, 56% of respondents reported that the QM rule will have a significant negative impact on mortgage lending. An additional 29% report that these factors will have a slight negative impact. The two mortgage provisions of S. 1349 noted above will help to keep community banks in the business of mortgage lending.

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[4] "How are Small Banks Faring Under Dodd-Frank?" Hester Peirce, Ian Robinson, and Thomas Stratmann. Mercatus Center Working Paper. February 2014.

Relief from Accounting and Auditing Expenses for Publicly Traded Community Banks and Thrifts

The third provision of S. 1349 would provide relief for community banks under $1 billion in asset size from the internal control attestation requirements of Section 404(b) of the Sarbanes-Oxley Act. Since community bank internal control systems are monitored continually by bank examiners, they should not have to incur the unnecessary annual expense of paying an outside audit firm for attestation work. This provision will substantially lower the regulatory burden and expense for small, publicly traded community banks without creating more risk for investors.

Modernize the Federal Reserve's Small Bank Holding Company Policy Statement

The fourth and last provision of S. 1349 would require the Federal Reserve to revise the Small Bank Holding Company Policy Statement – a set of capital guidelines that have the force of law. The Policy Statement, which eases the terms under which small bank holding companies may raise additional capital by issuing debt, would be revised to apply to both bank and thrift holding companies and to increase the qualifying asset threshold from $500 million to $5 billion. Under the Policy Statement, qualifying bank and thrift holding companies must not have significant outstanding debt or be engaged in nonbanking activities that involve significant leverage. This will help ease capital requirements for small bank and thrift holding companies. First National Bank of Scotia is bumping up against the current threshold, as are a number of other New York banks. Raising that threshold will ensure that as we grow we continue to have access to the capital we need to serve our communities.

These reasonable regulatory reforms of the CLEAR Relief Act have been debated and advanced in different forms throughout the 113th Congress. ICBA strongly encourages this Committee to ensure CLEAR Relief Act measures pass the Senate expeditiously.

The Senate Can Provide Immediate, Targeted Relief

As much as ICBA would like to see S. 1349 enacted into law this year, we are of course prepared to renew our efforts in the next Congress to advance this or a similar bill, if the sponsors choose to reintroduce a similar package. Until then, we appeal to the Senate Banking Committee for immediate relief, albeit more targeted in scope. A total of six community bank regulatory relief bills have passed the House. Most of those bills passed with broad bipartisan support and have Senate counterparts awaiting action. We are confident that, if scheduled, all or any one of these bills could pass the Senate with broad support. They could be enacted into law before Congress adjourns, and they would provide tangible relief to community banks and their customers. One of those House bills, H.R. 3329, would raise the Federal Reserve Small Bank Holding Company Policy Statement threshold from $500 million to $1 billion, similar to the CLEAR Relief Act provision I noted above. H.R. 3329 passed the House by voice vote. Another bill backed

by broad consensus is the Privacy Notice Modernization Act (S. 635), sponsored by Senators Sherrod Brown (D-OH) and Jerry Moran (R-KS), which currently has more than 70 cosponsors. (A complete list of House-passed bills and their Senate counterparts is attached to this statement.) S. 635 would provide relief from annual privacy notice mailings when a bank has not changed its privacy policies. Community banks simply do not have the scale to automate the annual privacy notice mailings, making them a manual and fairly labor intensive process. S. 635 will save even the smallest banks tens of thousands of dollars a year, real money for a community bank. And importantly, it will do so without putting consumers at risk or reducing their control over the use of their personal data. ICBA strongly urges the Committee's assistance in obtaining swift passage of S. 635.

Agency Rulemaking

As important as the legislative agenda is to community banks, we also have a great deal at stake in agency rulemaking. This is why it is critically important we have representation on the Federal Reserve Board and at the other agencies. The overwhelming majority of banks in this country are community banks. They deserve adequate attention and representation on policymaking bodies. ICBA thanks the Banking Committee for its support of Senator Vitter's amendment to the Terrorism Risk Insurance Act reauthorization to require that at least one Federal Reserve Board Governor have community banking experience. We urge your continued backing to ensure the amendment is included in the final version of this bill.

The Vitter amendment will help improve the quality of rulemaking at the Federal Reserve Board. However, community banks will no doubt continue to rely on this Committee's support for relief from agency rules. Congressional interest was a decisive factor in several favorable rule changes in recent years. The best examples are significant improvement to the Basel III final rule, new community bank exemptions under the CFPB's ability-to-repay/QM rule, a reversal of the Volcker Rule prohibition on bank ownership of collateralized debt obligations backed by trust preferred securities (TruPS CDOs), and a favorable SEC rule on registration of municipal advisors. ICBA sincerely thanks all of the members of this Committee who wrote or signed letters, asked tough questions of regulators in hearings, or otherwise communicated their support for community banks. Your influence with the regulators cannot be understated. With that in mind, I would like to highlight additional, much-needed regulatory relief and encourage your support for current ICBA agency initiatives, as discussed below.

Call Reports

Last week, ICBA delivered a petition to the regulatory agencies calling for more streamlined quarterly call report filings. The petition was signed by nearly 15,000 community bankers representing 40 percent of all community banks nationwide. The strong level of interest in this petition is testament to the growing burden and expense of the quarterly call report both in page volume and complexity. The quarterly call report now comprises 80 pages of forms and 670 pages of instructions. Implementation of the new Basel III capital standards may add nearly 60 additional pages to the already burgeoning call report.

ICBA's recent Community Bank Call Report Burden Survey empirically demonstrates this problem. Eighty-six percent of survey respondents said the total cost of preparing the quarterly call report has increased over the last 10 years.[5] Thirty percent said it had increased significantly. A typical $500 million asset community bank, such as First National Bank of Scotia, spends close to 300 hours a year of senior level, highly-compensated staff time on the quarterly call report. By contrast, in 2001 my bank filed a 31 page call report. The growth of this burden has been dramatic.

Only a fraction of the information collected is actually useful to regulators in monitoring safety and soundness and conducting monetary policy. The 80 pages of forms contain extremely granular data such as the quarterly change in loan balances on owner-occupied commercial real estate. Whatever negligible value there is for the regulators in obtaining this type of detail is dwarfed by the expense and the staff hours dedicated to collecting it. To put things in perspective, consider this contrast: some large credit unions filed a less than 30 page call report in the first quarter of 2014. Surely, regulators can supervise community banks with significantly less paperwork burden than they currently demand.

For this reason, ICBA is calling on the agencies to allow highly-rated community banks to submit a short form call report in the first and third quarters of each year. A full call report would be filed at mid-year and at year-end. The short form would contain essential data required by regulators to conduct offsite monitoring, including income, loan growth, changes in loan loss reserves, and capital position. In the recent survey noted above, community bank respondents overwhelmingly agreed that instituting a short-form call report in certain quarters would provide a great deal of regulatory relief. Seventy-two percent of respondents indicated the relief would be substantial. ICBA views this as a reasonable and moderate request that will provide significant burden relief to community banks and hopes you will support it.

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[5] 2104 ICBA Community Bank Call Report Burden Survey.
http://www.icba.org/files/ICBASites/PDFs/2014CallReportSurveyResults.pdf

Federal Housing Finance Agency Membership Test Proposal

On September 2, the Federal Housing Finance Agency (FHFA) released a Notice of Proposed Rulemaking which would impose an ongoing test to retain membership in the Federal Home Loan Bank (FHLB) system. The FHLB system is a critical source of stable, low-cost funding for community banks used for home mortgage lending, loans for land purchases, and affordable housing. As a result of an ongoing eligibility test, some community banks with a long history of using the FHLB system may be cut off from a vital source of funding, resulting in reduced access to credit in some markets. ICBA is very concerned about the unintended consequences of this rule change and opposed a similar proposal four years ago. We will continue to work with the FHFA on this issue and ask for the Committee's support.

The Economic Growth and Regulatory Paperwork Reduction Act Review

Another opportunity for agency regulatory relief is the 10-year review required under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). The OCC, the Federal Reserve Board, and the FDIC are required to identify outdated, unnecessary or unduly burdensome regulation on insured depository institutions. This review will be conducted over a two-year period and will proceed by soliciting comment on twelve categories of regulation. This process holds real promise, if the agencies commit themselves to carrying it out in earnest and according to the terms of the statute.

Community bankers were significantly engaged in the last EGRPRA review, completed in 2006. More than 500 community bankers attended meetings around the country and many more submitted comment letters. Their input was substantive and detailed and should have formed the basis of significant regulatory relief. Unfortunately, the process was a lost opportunity and community bankers were deeply disappointed and disillusioned with the results. Though the process fully demonstrated the urgent need for relief, only minimal regulatory changes were made.

John Reich, then-Director of the Office of Thrift Supervision and leader of the interagency EGRPRA program, wrote:

> Financial institutions of all sizes suffer under the weight of unnecessary regulatory burden, but small community banks unquestionably bear a disproportionate share of the burden due to their more limited resources. While it is difficult to accurately measure the impact regulatory burden has played in industry consolidation, numerous anecdotal comments from bankers across the country as well as from investment bankers who arrange merger and acquisition

> transactions indicate it has become a significant factor. Accordingly, I am deeply concerned about the future of our local communities and the approximately 8,000 community banks under $1 billion in assets…[6]

Unfortunately, the process did not produce the results participants had hoped for and, unfortunately, Reich's assessment turned out to be accurate. Since he made that statement in 2007, the number of community banks has dropped to about 6,500 due mainly to consolidation, and the amount of regulation has grown exponentially.

For this reason, ICBA is making specific recommendations with regard to the process to increase the chances the results match what was intended by Congress. ICBA's recommendations include:

- The agencies should conduct at least six outreach meetings to receive direct input from community bankers.
- The agencies should establish a more comprehensive website, as they did during the last review, to publish notices and post comment letters. The website should feature a "top ten list" of the most burdensome regulations as identified in comment letters and at outreach meetings.
- The agencies should appoint a high level, overall director of the process, an "EGRPRA Czar," to lead the process and, importantly, resolve disputes among the agencies and overrule the objections of any single agency that is obstructing a significant reform.
- The agencies should conduct an independent, empirical study to quantify the regulatory burden facing community banks.

ICBA believes these recommendations are critical to the success of the EGRPRA process as originally intended by Congress. We urge this Committee to support our recommendations and to actively ensure the process results in significant regulatory relief. Community banks cannot afford another missed opportunity.

Closing

Thank you again for the opportunity to testify today. ICBA hopes this testimony, while not exhaustive, gives the Committee a sense of the sharply increasing resource demands placed on community banks by regulation and examination and what's at stake for the future of community banking.

Left unaddressed, the increasing burden of regulation will continue to discourage the chartering of new community banks and lead to further industry consolidation. Consolidation will lead to higher loan interest rates for borrowers, lower rates paid on

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[6] **Federal Register** /Vol. 72, No. 211 /Thursday, November 1, 2007 /Notices. P. **62037**

deposits, and fewer product choices – especially in the rural areas and small towns currently served by community banks. A more concentrated industry, dominated by a small number of too-big-to-fail banks, will jeopardize the safety and soundness of the financial system and expose taxpayers to the risk of additional costly bailouts. That is why it is so important to enact sensible regulatory reforms, including but not limited to the bills and regulatory initiatives discussed here.

ICBA encourages you to reach out to the community bankers in your states. Ask them about the current regulatory environment and needed reforms.

Thank you again for the opportunity to testify today. ICBA looks forward to working with this committee to craft urgently needed legislative solutions.

ATTACHMENTS

- ICBA Plan for Prosperity
- List of House-Passed Community Bank Regulatory Relief Bills

Plan for Prosperity

A Regulatory Relief Agenda to Empower Local Communities

2013

Plan for Prosperity: A Regulatory Relief Agenda to Empower Local Communities

America's 7,000 community banks are vital to the prosperity of the U.S. economy, particularly in micropolitan and rural communities. Providing 60 percent of all small business loans under $1 million, as well as customized mortgage and consumer loans suited to the unique characteristics of their local communities, community banks are playing a vital role in ensuring the economic recovery is robust and broad based, reaching communities of all sizes and in every region of the country.

In order to reach their full potential as catalysts for entrepreneurship, economic growth, and job creation, community banks must be able to attract capital in a highly competitive environment. Regulation calibrated to the size, lower-risk profile, and traditional business model of community banks is critical to this objective. ICBA's Plan for Prosperity provides targeted regulatory relief that will allow community banks to thrive by doing what they do best – serving and growing their communities. By rebalancing unsustainable regulatory burden, the Plan will ensure that scarce capital and labor resources are used productively, not sunk into unnecessary compliance costs, allowing community banks to better focus on lending and investing that will directly improve the quality of life in our communities. Each provision of the Plan was selected with input from community bankers nationwide and crafted to preserve and strengthen consumer protections and safety and soundness.

The Plan is not a bill; it is a platform and set of legislative priorities positioned for advancement in Congress. The provisions could be introduced in Congress individually, collectively or configured in whatever fashion suits interested members of Congress. The Plan is a flexible, living document that can be adapted to a rapidly changing regulatory and legislative environment to maximize its influence and likelihood of enactment. Provisions of the Plan include:

Support for the Housing Recovery: Mortgage Reform For Community Banks. Provide community banks relief from certain mortgage regulations, especially for loans held in portfolio. When a community bank holds a loan in portfolio, it has a direct stake in the loan's performance and every incentive to ensure it is affordable and responsibly serviced. Relief would include: Providing "qualified mortgage" safe harbor status for loans originated and held in portfolio for the life of the loan by banks with less than $10 billion in assets, including balloon mortgages; exempting banks with assets below $10 billion from escrow requirements for loans held in portfolio; increasing the "small servicer" exemption threshold to 20,000 loans (up from 5,000); and reinstating the FIRREA exemption for independent appraisals for portfolio loans of $250,000 or less made by banks with assets below $10 billion.

Strengthening Accountability in Bank Exams: A Workable Appeals Process. The trend toward oppressive, micromanaged regulatory exams is a concern to community bankers nationwide. An independent body would be created to receive, investigate, and resolve material complaints from banks in a timely and confidential manner. The goal is to hold examiners accountable and to prevent retribution against banks that file complaints.

Redundant Privacy Notices: Eliminate Annual Requirement. Eliminate the requirement that financial institutions mail annual privacy notices even when no change in policy has occurred. Financial institutions would still be required to notify their customers when they change their privacy policies, but when no change in policy has occurred, the annual notice provides no useful information to customers and is a needless expense.

Serving Local Governments: Community Bank Exemption from Municipal Advisor Registration. Exempt community bank employees from having to register as municipal advisors with the SEC and the Municipal Securities Rulemaking Board. Community banks provide traditional banking services to small municipal governments such as demand deposits, certificates of deposit, cash management services, loans and letters of credit. These activities are closely supervised by state and federal bank regulators. Municipal advisor registration and examination would pose a significant expense and regulatory burden for community banks without enhancing financial protections for municipal governments.

Creating a Voice for Community Banks: Treasury Assistant Secretary for Community Banks. Economic and banking policies have too often been made without the benefit of community bank input. An approach that takes into account the diversity and breadth of the financial services sector would significantly improve policy making. Creating an Assistant Secretary for Community Banks within the U.S. Treasury Department would ensure that the 7,000 + community banks across the country, including minority banks that lend in underserved markets, are given appropriate and balanced consideration in the policy making process.

Balanced Consumer Regulation: More Inclusive and Accountable CFPB Governance. Change the governance structure of the CFBP to a five-member commission rather than a single Director. Commissioners would be confirmed by the Senate to staggered five-year terms with no more than three commissioners affiliated with any one political party. This change will strengthen accountability and bring a diversity of views and professional backgrounds to decision-making at the CFPB. In addition, FSOC's review of CFPB rules should be strengthened by changing the vote required to veto a rule from an unreasonably high two-thirds vote to a simple majority, excluding the CFPB Director.

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Relief from Accounting and Auditing Expenses: Publicly Traded Community Banks and Thrifts. Increase from $75 million in market capitalization to $350 million the exemption from internal control attestation requirements. Because community bank internal control systems are monitored continually by bank examiners, they should not have to sustain the unnecessary annual expense of paying an outside audit firm for attestation work. This provision will substantially lower the regulatory burden and expense for small, publicly traded community banks without creating more risk for investors. Separately, due to an inadvertent oversight in the recently-passed JOBS Act, thrift holding companies cannot take advantage of the increased shareholder threshold below which a bank or bank holding company may deregister with the SEC. Congress should correct this oversight by allowing thrift holding companies to use the new 1200 shareholder deregistration threshold.

Ensuring the Viability of Mutual Banks: New Charter Option and Relief from Dividend Restrictions. The OCC should be allowed to charter mutual national banks to provide flexibility for institutions to choose the charter that best suits their needs and the communities they serve. In addition, certain mutual holding companies – those that have public shareholders—should be allowed to pay dividends to their public shareholders without having to comply with numerous "dividend waiver" restrictions as required under a recent Federal Reserve rule. The Federal Reserve rule makes it difficult for mutual holding companies to attract investors to support their capital levels. Easier payment of dividends will ensure the viability of the mutual holding company form of organization.

Rigorous and Quantitative Justification of New Rules: Cost-Benefit Analysis. Provide that financial regulatory agencies cannot issue notices of proposed rulemakings unless they first determine that quantified costs are less than quantified benefits. The analysis must take into account the impact on the smallest banks which are disproportionately burdened by regulation because they lack the scale and the resources to absorb the associated compliance costs.
In addition, the agencies would be required to identify and assess available alternatives including modifications to existing regulations. They would also be required to ensure that proposed regulations are consistent with existing regulations, written in plain English, and easy to interpret.

Additional Capital for Small Bank Holding Companies: Modernizing the Federal Reserve's Policy Statement. Require the Federal Reserve to revise the Small Bank Holding Company Policy Statement – a set of capital guidelines that have the force of law. The Policy Statement, makes it easier for small bank holding companies to raise additional capital by issuing debt, would be revised to apply to both bank and thrift holding companies and to increase the qualifying asset threshold from $500 million to $5 billion. Qualifying bank and thrift holding companies must not have significant outstanding debt or be engaged in nonbanking activities that involve significant leverage. This will help ease capital requirements for small bank and thrift holding companies.

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Cutting the Red Tape in Small Business Lending: Eliminate Data Collection. Exclude banks with assets below $10 billion from new small business data collection requirements. This provision, which requires the reporting of information regarding every small business loan application, falls disproportionately upon community banks that lack scale and compliance resources.

Facilitating Capital Formation: Modernize Subchapter S Constraints and Extend Loss Carryback. Subchapter S of the tax code should be updated to facilitate capital formation for community banks, particularly in light of higher capital requirements under the proposed Basel III capital standards. The limit on Subchapter S shareholders should be increased from 100 to 200; Subchapter S corporations should be allowed to issue preferred shares; and Subchapter S shares, both common and preferred, should be permitted to be held in individual retirement accounts (IRAs). These changes would better allow the nation's 2300 Subchapter S banks to raise capital and increase the flow of credit. In addition, banks with $15 billion or less in assets should be allowed to use a five-year net operating loss (NOL) carryback through 2014. This extension of the five-year NOL carryback is countercyclical and will support community bank capital and lending during economic downturns.

The Independent Community Bankers of America®, the nation's voice for nearly 7,000 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services. For more information, visit www.icba.org.

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House-Passed Community Bank Regulatory Relief Bills

House Bill (date of passage)	Description	Senate Companion Bill
The Eliminate Privacy Notice Confusion Act (H.R. 749) (March 12, 2013)	Eliminates privacy notice mailings when no change in policy has occurred.	The Privacy Notice Modernization Act (S. 635)
The Holding Company Registration Threshold Equalization Act (H.R. 801)(January 14, 2014)	Allows thrift holding companies to use the new shareholder registration/deregistration thresholds of the 2012 JOBS Act. These thresholds are currently available to banks.	The Holding Company Registration Threshold Equalization Act (S. 872)
Helping Expand Lending Practices in Rural Communities Act (H.R. 2672) (May 6, 2014)	Creates a petition process with regard to the CFPB's designation of an area as "rural."	HELP Rural Communities Act of 2014 (S. 1916)
H.R. 3329 (May 6, 2014)	Raises the Federal Reserve Small Bank Holding Company Policy Statement asset threshold from $500 million to $1 billion.	No companion bill. Similar provision included in the CLEAR Relief Act (S. 1349).
The SEC Regulatory Accountability Act (H.R. 1062)(May 17, 2013)	Requires the Chief Economist of the SEC to determine that the benefits of any proposed regulation justify the costs.	No companion bill. Similar to the Financial Regulatory Responsibility Act (S. 450).
The Consumer Financial Protection Commission Act (H.R. 3193) (February 27, 2014)	Replaces the single CFPB Director with a five-person Commission, strengthens FSOC review of CFPB rules, among other provisions.	N/A