

April 20, 2010

To: Members of the U.S. Senate

Re: S. 3217, the Restoring American Financial Stability Act of 2010

The American Bankers Association and the undersigned state banking associations, representing thousands of banks of all sizes, are writing to express our opposition to the Senate Banking Committee approved version of the financial regulatory restructuring bill expected on the Senate floor this week.

We appreciate the extraordinary efforts that members of the Senate have undertaken on financial regulatory reform. We support many of the concepts of the regulatory restructuring package, but we cannot support the bill as reported out of the Senate Banking Committee. We ask that you oppose this legislation in its current form.

The bill under consideration contains important reforms, particularly with respect to systemic oversight. We believe the fundamental concepts proposed in the bill are also important for the long-term interest of the industry. There are, however, several provisions in the Committee passed bill that are unworkable and would impose heavy new regulatory requirements on traditional banks that had nothing to do with the financial crisis.

Our member banks support strong consumer protection and believe improvements can be made to enhance consumer protection. We, however, cannot support the creation of the Consumer Financial Protection Bureau (CFPB) as proposed under this legislation. The CFPB would subject all banks, regardless of size, to new rules and standards. These rules would apply new broad, untested, and poorly defined standards – such as “abusive” or “unreasonable advantage” – to retail bank products. These standards would give the CFPB wide latitude to influence what products are offered, on what terms, and under what circumstances. In addition, the CFPB would be required to mandate expensive new reports from banks and would be authorized to mandate others. The same rules, standards, and reports would not be applied to non-banks, many of whom contributed greatly to the economic crisis but would continue to have little or no enforcement, examination, or reporting requirements.

The legislation proposes to eliminate the Federal Reserve’s authority to regulate state member banks. This change is unnecessary and would create expensive disruptions and uncertainty for the sake of theoretical regulatory efficiency. The ultimate result would be a Federal Reserve that is limited in its view and input to the largest financial firms, undermining its ability to fully understand small and mid-size institutions and the communities they serve across the country.

We see no justification for eliminating the federal thrift charter option going forward, as proposed in the bill. The federal thrift charter has served consumers and the thrift industry well for many years. Eliminating the option simply labels it as “second class” when, in fact, thrifts have continued to use the charter to best serve their communities. We strongly encourage you to preserve the charter and allow new entry, growth, and innovation of thrifts to continue so they can meet local credit needs of their communities.

We are concerned that the resolution mechanism proposed in the bill does not adequately address too-big-to-fail. The creation of a before-the-fact resolution fund would be viewed by the market as the creation of de facto too-big-to fail insurance, thus implicitly supporting the too-big-to fail

concept.

There are several other provisions which we believe would harm community banks, particularly the provisions on preemption that would weaken the preemption standard by creating procedural barriers to obtaining preemption decisions and requiring federally chartered institutions to understand and comply with hundreds of different state and local laws. Another provision designed to address problems in securitization would greatly undermine the ability of community banks to move loans off their books. The result would be less-profitable and, in fact, more-risky community banks and less credit availability.

Again, we support regulatory reform and believe the bill contains a number of positive reforms. However, we believe the bill as reported out of the Banking Committee is not balanced and unfairly targets Main Street banks that did not contribute to the economic crisis. This legislation will determine the future of those banks. Banks that are trying to do everything they can to serve their communities and make credit available to consumers and businesses in a very difficult economy.

We request that you work in a bipartisan manner to improve this legislation to the benefit of the nation's consumers and thousands of banks and bank employees.

Sincerely,

American Bankers Association  
Alabama Bankers Association  
Alaska Bankers Association  
Arizona Bankers Association  
Arkansas Bankers Association  
California Bankers Association  
Colorado Bankers Association  
Community Bankers Association of Ohio  
Connecticut Bankers Association  
Delaware Bankers Association  
Florida Bankers Association  
Georgia Bankers Association  
Hawaii Bankers Association  
Heartland Community Bankers Association  
Idaho Bankers Association  
Illinois Bankers Association  
Illinois League of Financial Institutions  
Indiana Bankers Association  
Iowa Bankers Association  
Kansas Bankers Association  
Kentucky Bankers Association  
Louisiana Bankers Association  
Maine Association of Community Banks  
Maryland Bankers Association  
Massachusetts Bankers Association  
Michigan Bankers Association  
Minnesota Bankers Association  
Mississippi Bankers Association

Missouri Bankers Association  
Montana Bankers Association  
Nebraska Bankers Association  
Nevada Bankers Association  
New Hampshire Bankers Association  
New Jersey Bankers Association  
New Mexico Bankers Association  
New York Bankers Association  
North Carolina Bankers Association  
North Dakota Bankers Association  
Ohio Bankers League  
Oklahoma Bankers Association  
Oregon Bankers Association  
Pennsylvania Bankers Association  
Puerto Rico Bankers Association  
Rhode Island Bankers Association  
South Carolina Bankers Association  
South Dakota Bankers Association  
Tennessee Bankers Association  
Texas Bankers Association  
Utah Bankers Association  
Vermont Bankers Association  
Virginia Bankers Association  
Washington Bankers Association  
Washington Financial League  
West Virginia Bankers Association  
Wisconsin Bankers Association  
Wyoming Bankers Association