



American
Bankers
Association

Building Success. Together.

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The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Dear Chairman Bair:

Thank you for your continued willingness to engage in dialog with the banking industry over important regulatory and policy issues. It was very significant to me that you made yourself available to meet in my first few days on the job at ABA and discuss some of these issues. There has perhaps never been a more crucial time for the shaping of the future of the banking industry than right now.

As you know, President Obama recently spoke out strongly for the importance of addressing regulatory burdens that impede economic growth and the creation of new jobs. As he instructed federal departments to take prompt action to address regulatory burdens, we believe that it is important that federal independent agencies take up a similar effort. The day after the President's announcement I sent him a letter congratulating him on his initiative, and I pledged the active efforts of the banking industry in support of that initiative. In my letter I shared some examples of actions that can and should be taken to relieve harmful regulatory burdens and promised that we would provide additional ideas to appropriate federal departments and agencies, including those not formally reached by his executive order.

In fulfillment of that pledge, I am including with this letter a list of regulatory relief steps that we would encourage the FDIC to take up as soon as possible. I request that you and the members of the FDIC board give these suggestions priority attention in the spirit of economic growth and support of new jobs. I wrote to President Obama that, "Without quick and bold action to relieve regulatory burden we will witness an appalling contraction of the banking industry." I believe that and worry about it and fear what it means for local economies and our national prosperity. That is why I concluded my letter to the President with this affirmation: "The banking industry and the individuals, families, and businesses who are our customers need this effort to be successful."

Thank you for your consideration of these proposals.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Keating', with a long horizontal flourish extending to the right.

Frank Keating

Selected Regulatory Relief Issues Within FDIC Jurisdiction

Issue	Description	Problem/How to Fix
Brokered deposits	Takes unnecessarily restrictive view of "brokered deposit" and cuts off sources of stable funding	Fewer loans get made. Fix by carving out of definition deposits raised through reciprocal deposit swap networks or sweeps from B/D. Do not impose penalty on CAMELS 1&2 rated banks with assets greater than \$10 billion (under the proposed risk-based methodology for large banks)
"Core" deposit	Banks are often criticized for reliance on non-core funding. Deposits between \$100,000 and \$250,000 are treated as non-core, despite full FDIC insurance and despite that the deposits come from core customers (i.e., those with whom the bank has more than just a deposit relationship).	This creates disincentive for banks to rely on good, stable sources of deposits, thus reducing funds that can be loaned. Also reduces banks' ability to compete for larger customers. Fix by stating clearly that all fully-insured deposits that come from core customers will be treated as core funding.
CRE concentration guidance	Provides guidance benchmarks to identify need to manage risks of concentrations. Benchmarks have been applied as caps on CRE lending, forcing banks to walk away from good CRE loans.	Prevents some good loans from being made based on arbitrary limit. Fix by reinforcing message with examiners that banks have the flexibility to exceed thresholds consistent with good risk management programs.
Capital rules	As applied, agencies are requiring banks to raise more capital at the precise time when capital raising is most difficult.	Raising capital ratios contracts funding, a given amount of capital able to support less lending. Forcing capital raises in times of stress can in particular force bank to <i>shrink</i> to meet capital-to-assets ratio. This means fewer loans get made. Fix by relieving the increasing regulatory demand for higher bank capital, easing the way for higher lending.
Guidance on Overdraft Programs	Highly prescriptive "guidance" imposes new compliance burdens on bank overdraft programs.	This "Guidance" (applied like regulation) increases the costs and reduces the revenues from overdraft programs. The result will decrease availability of overdraft programs for some customers, reduce the ability of cross-subsidization of other bank services (such as free checking accounts), and affect bank non-interest income. Fix: Rescind the current Guidance and re-visit only on an interagency basis after more experience with the Federal Reserve

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		rules, further study, and if the Federal Reserve amends the current regulation.
Excess Pre-Payments to Deposit Insurance Fund (DIF)	FDIC required banks to prepay three years of DIF premiums, based upon failed bank loss assumptions that have proven to be too pessimistic, by \$10 billion or more.	Excess prepayment of premiums move funds—that could have been used for lending in local communities—to sit idle in FDIC accounts. Fix: Update DIF reserves for losses and return excess pre-payments to the banks while holding to DIF recap schedule set by Congress (1.35% by September 2020).
CRA: Financial Education	CRA regulations give recognition to support for financial education programs only to the extent the bank can document that the programs serve low income or minority populations.	Financial education is valuable for all members of the local community and results in better use of loans and other bank services. Fix: In CRA evaluations give full recognition to all financial education efforts.
CRA: Disaster relief and recovery	CRA regulations give recognition to bank loans and services for disaster relief and recovery only to the extent that the area has been designated a disaster area by the federal government.	Disaster relief and recovery efforts are important even when the disaster may not be broad enough to obtain federal designation. Fix: In CRA evaluations give full recognition to all disaster relief and recovery efforts.
Flood Insurance	Banks are tapped to carry almost the whole burden of federal flood insurance enforcement, even though only a portion of affected properties are subject to a mortgage held by a bank. As interpreted by the banking agencies, compliance with the mandatory purchase requirement forces banks to make complex interpretive judgments about insurance issues.	These costs must be covered by bank mortgage revenues and thus increase the cost of making mortgages. Fix: Return bank responsibility for federal flood insurance to verifying whether a property is in a flood zone as mapped by NFIP and requiring that the borrower obtain and maintain proper coverage.
Risk Retention	Section 941 of the Dodd/Frank Act requires the federal banking regulators as well as HUD, FHFA and the SEC jointly to implement risk retention requirements for a number of asset classes, including residential mortgages. The regulators are further instructed to develop a definition of a "Qualified Residential Mortgage or QRM" which is to be exempt from risk retention requirements.	Imposition of the new requirements, especially if overly broad, will destabilize an already feeble mortgage market and will make it harder for community banks to lend as they will not have the capital or capacity for significant loan volumes. Regulatory changes under the TILA and policy changes by FHFA and the SEC have already imposed significant changes to mortgage underwriting. Reports indicate consideration of a high down-payment

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		<p>amount (of 20 or even 30 percent) for the QRM exemption.</p> <p>Fix: QRM status should be focused on loan and borrower characteristics not just on down payment and should take into account underwriting changes already required. The duration of risk retention requirements must be set at a reasonable level, so as not to constrain capital for long periods and further restrain lending capacity.</p>
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