



ICBA Plan for Prosperity Agenda Proceeds in 113th Congress

By Paul Merski

Working to secure relief from the crushing regulatory burden on community banks is and has always been Job No. 1 at ICBA. But while Washington seems capable of producing an endless stream of regulatory mandates, ICBA and the nation's community banks are making considerable progress on several measures to help stem the tide.

Congress and the regulators continue to hear our voices pushing back hard against Basel III and its misplaced focus on community banks. And the [ICBA Plan for Prosperity](#)—the association's regulatory relief legislative platform for the 113th Congress—continues making progress on Capitol Hill. The plan introduced in February with broad community banker input and support promotes targeted regulatory relief for community banks and thrifts. Its various provisions were crafted to have a viable chance to move in this challenging and divided 113th Congress.

The good news is the Plan for Prosperity has caught on. ICBA Chairman [Bill Loving testified](#) on behalf of the plan in April, and numerous provisions are advancing in both the House and Senate. Simply stated, the Plan for Prosperity items are teed up in Congress. Nevertheless, continued outreach to lawmakers from community bankers via [ICBA's "Be Heard" grassroots website](#) is necessary to keep the momentum going and to get these relief measures enacted.

Multipronged Measures

Two important bills take an omnibus legislative approach to incorporate many of ICBA's top regulatory relief concerns.

First, the Community Lending Enhancement and Regulatory Relief Act of 2013 (H.R. 1750) would:

- provide "qualified mortgage" status under the Consumer Financial Protection Bureau'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 escrow requirements any first-lien mortgage held by a lender with less than \$10 billion in assets,
- exempt servicers that service 20,000 or fewer mortgages from certain new servicing rules,
- exempt mortgages of less than \$250,000 from independent appraisal requirements,
- eliminate the requirement that financial institutions mail annual privacy notices even when they have not changed their policies,

- exempt community banks with assets of less than \$10 billion from the Sarbanes-Oxley 404(b) internal-controls assessment mandates,
- require the Securities and Exchange Commission to conduct a cost-benefit analysis of new or amended accounting principles, and
- 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.

Additionally, beyond the ICBA-backed proposals addressing too-big-to-fail in the Terminating Bailouts for Taxpayer Fairness Act of 2013 (S. 798), this legislation includes provisions to:

- broaden the definition of “rural” in the CFPB’s mortgage rules so that more community bank mortgage loans can meet QM definition,
- create an ombudsman within the Federal Financial Institutions Examination Council to receive and investigate complaints and process appeals of bank examinations,
- allow thrift holding companies to use the new 1,200-shareholder SEC deregistration threshold,
- allow mutual holding companies that have public shareholders to pay dividends to their public shareholders without having to comply with new “dividend waiver” restrictions, and
- exempt community banks with assets of less than \$10 billion from new small-business data-collection requirements.

Target Practice

In addition to these broad regulatory relief measures, a variety of single-issue bills are moving ahead. Rather than the shotgun system of the broader legislation discussed above, these employ a rifle approach for quick and less controversial advancement. Here's a quick rundown.

- The Eliminate Privacy Notice Confusion Act (H.R. 749) would end annual privacy notice redundancies. It has passed in the House.
- The Municipal Advisor Relief Act (S. 710) would exempt banks and bank employees from having to register as municipal advisors with the SEC, while the Municipal Advisor Oversight Improvement Act (H.R. 797) would exempt traditional banking activities from triggering the registration requirement.
- The Responsible Financial Consumer Protection Regulations Act (S. 205) would replace the single CFPB director with a Senate-confirmed, five-person commission.
- The Holding Company Registration Threshold Equalization Act (H.R. 801/S.872) would allow thrift holding companies to use the new SEC shareholder deregistration threshold.
- The Financial Regulatory Responsibility Act of 2013 (S. 450) would prohibit any federal financial regulatory agency from publishing a final rule if it determines that the quantified costs exceed the benefits. Additionally, the SEC Regulatory Accountability Act (H.R. 1062) would require the SEC to determine that the benefits of any proposed regulation justify the costs before adoption.
- The Financial Institutions Examination Fairness and Reform Act (H.R. 1553/S. 727) would create an ombudsman within the FFIEC to hear appeals of exam findings and would establish a right to appeal before an independent administrative law judge.

- The Mutual Community Bank Competitive Equality Act (H.R. 1603) would allow the Office of the Comptroller of the Currency to charter mutual national banks and permit mutual holding companies to waive dividends paid by its stock subsidiary if specified conditions are met.
- The Right to Lend Act (H.R. 2323) would repeal Section 1071 of the Dodd-Frank Act requiring financial institutions to collect and report information concerning small-business credit applications.
- The S Corporation Modernization Act (H.R. 892) would allow Subchapter S corporation shares to be held in an individual retirement accounts.

Capital, Flood Insurance Rates

In addition to ICBA's Plan for Prosperity provisions, the association also is working in Congress to address other issues that threaten the nation's community banks.

Pushing back against the proposed Basel III capital guidelines continues, and ICBA-supported measures in the House and Senate would provide much-needed relief. The Basel III Commonsense Approach for Small Entities Act (S. 731) would require the federal banking agencies to conduct a quantitative, empirical impact study prior to finalizing the Basel III rules. Additionally, H.R. 1693 would create an exemption from the Basel III risk-based capital rules and the standardized approach for banks with less than \$50 billion in assets.

Further, ICBA remains concerned with potentially dramatic increases in flood insurance rates for many homeowners in both coastal and inland areas. To prevent sharp increases, ICBA is working to advance S. 996, which would exempt from new risk-based premium rates properties purchased before the enactment of the Biggert-Waters Flood Insurance Reform Act of 2012. It also would delay rate changes until the Federal Emergency Management Agency conducts an affordability study. The association also supports the Landrieu-Vitter amendment to delay by three years rate changes for grandfathered properties and to speed up the FEMA affordability study required by the Flood Insurance Act of 2012. Additionally, ICBA is putting its weight behind a House-passed amendment that would delay rate increases by preventing implementation of Section 207 of the Flood Insurance Reform Act.

Further Diligence Needed

Obviously, ICBA-advocated regulatory relief measures, including the Plan for Prosperity, now have momentum in Congress. But to get this legislation through the legislative process, community bankers nationwide must renew their commitment to advocacy. [Grassroots outreach to Congress](#) is as fundamental to our industry's daily operations as taking deposits and making loans.

That is why community bankers from the corner office to the front line should be familiar with these legislative priorities and should be ready to work with their members of Congress to see them through. ICBA offers a [variety of resources on its "Be Heard" grassroots website](#) that makes it easy for community bankers to contact their members of Congress. Community bankers can use customizable resources to contact their members of Congress in support of a variety of the Plan for Prosperity's provisions. Constant diligence and grassroots outreach is needed to truly emerge from the crushing regulatory burden plaguing our industry.

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