



INDEPENDENT COMMUNITY
BANKERS of AMERICA®

Brad M. Bolton, *Chairman*
Derek B. Williams, *Chairman-Elect*
Lucas White, *Vice Chairman*
Tim R. Aiken, *Treasurer*
Sarah Getzlaff, *Secretary*
Robert M. Fisher, *Immediate Past Chairman*
Rebeca Romero Rainey, *President and CEO*

November 17, 2022

The Honorable Charles E. Schumer
Majority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Republican Leader
U.S. Senate
Washington, D.C. 20510

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

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Majority Leader Schumer, Republican Leader McConnell, Speaker Pelosi, and Republican Leader McCarthy:

On behalf of ICBA and the nearly 50,000 community bank locations we represent, I write to set forth our priorities for the remaining weeks of the 117th Congress. The Lame Duck session provides an opportunity to pass bipartisan legislation that has been thoroughly vetted through the legislative process, such as the SAFE Banking Act. The Lame Duck session also creates a risk of rash enactment of bills that have not been well vetted and lack bipartisan support. Our view of several bills that may be advanced is provided below.

- **The SAFE Banking Act (S. 910/H.R. 1996).** The SAFE Banking Act (S. 910), sponsored by Senators Jeff Merkley and Steve Daines, has 42 bipartisan cosponsors. The House companion bill (H.R. 1996), introduced by Reps. Ed Perlmutter, Steve Stivers, Warren Davidson, and Nydia Velázquez, passed the House on April 19, 2021, on a strong bipartisan vote of 321-101. The Act has passed the House seven times on a bipartisan basis. The bill would create a safe harbor from federal sanctions for financial institutions that serve cannabis-related businesses (CRBs), as well as the numerous ancillary businesses that serve them, in states and other jurisdictions where cannabis is legal. As these businesses are effectively shut out of the banking industry, they are forced to operate in cash and create a target for armed robbery and assault. The SAFE Banking Act would resolve a conflict between state and federal law and address a critical public safety concern. ICBA urges Senate floor consideration of the SAFE Banking Act before year-end.
- **The Close the ILC Loophole Act (H.R. 5912).** ICBA urges House leadership to schedule Lame Duck floor consideration of H.R. 5912, sponsored by Reps. Jesus “Chuy” Garcia, Stephen Lynch, Lance Gooden, and Pete Sessions. H.R. 5912, which would amend the Bank Holding Company Act to permanently close the industrial loan company (ILC) loophole while grandfathering existing ILCs, passed the Financial Services Committee in June on a bipartisan vote. The loophole allows ILCs to evade consolidated supervision and thereby create a threat to safety and soundness. With the prospect of economic conditions deteriorating in the coming months, Congress must act now to address the systemic

The Nation's Voice for Community Banks.®

WASHINGTON, DC
1615 L Street NW
Suite 900
Washington, DC 20036

SAUK CENTRE, MN
518 Lincoln Road
P.O. Box 267
Sauk Centre, MN 56378

866-843-4222
www.icba.org

risk created by ILCs through House passage of H.R. 5912 and the introduction of similar legislation in the Senate.

The following bills are strongly opposed by the community banking sector and are not ripe for floor consideration. ICBA asks that they not be taken up during the Lame Duck.

- **No credit card routing mandates.** The Credit Card Competition Act (S. 4674, H.R. 8874) is highly controversial legislation that would advance complex new credit card routing mandates that would force an overhaul of the payments landscape at significant systemic cost – a cost ultimately borne by consumers and the community banks that serve them. The legislation is poorly conceived and would benefit the largest “big-box” merchants including Amazon, Walmart, and others at the expense of consumers.
- **Untested cryptocurrency legislation.** Recent market events, including the multi-billion-dollar meltdown perpetrated by FTX, have again highlighted the ongoing risks of cryptocurrencies, including stablecoins, and their potential for contagion and overspill into the traditional financial system. While effective and comprehensive regulation is needed to balance the risks and benefits of this emerging technology; incomplete regulation would only create dangerous loopholes and blind spots which would increase systemic risk. **It would be premature to hastily pass any form of cryptocurrency legislation during the Lame Duck.** Further study, with input from community banks and all stakeholders, is needed.
- **No postal banking.** ICBA strongly opposes report language in the House Financial Services and General Government Appropriations (FSGG) Bill that would fund postal financial services pilot programs. Postal banking in any form is an ill-advised idea fraught with unintended consequences. A postal banking pilot program launched over a year ago has been a proven failure with almost non-existent demand and a failure to generate revenue to cover expenses. Any attempt to scale up this pilot by adding services or locations would only jeopardize the core mission of United States Postal Service.
- **SBA Direct lending.** ICBA strongly opposes the provision of direct loans under the Small Business Administration’s 7(a) program. The SBA has a poor track record in direct lending, with significantly higher subsidy rates and increased risk of fraud. SBA direct lending is a poor and costly alternative to private sector lending and would reach fewer borrowers. Today, there is a strong network of community banks, Community Development Financial Institutions, and other lenders already in place to meet demand for small business borrowers as demonstrated by the success of the Paycheck Protection Program.
- **Overdraft restrictions carry unintended consequences.** The Overdraft Protection Act (H.R. 4277) contains overdraft restrictions that would force many community banks to stop offering overdraft services to their customers. Such restrictions would result in significantly more bounced checks and declined debit card transactions—leading to unnecessary credit rating harm. H.R. 4277 has not been considered on the House floor, lacks bipartisan support, and should not be considered during the Lame Duck session.

- **No expansion of credit union field of membership.** House legislation (H.R. 7003) would expand taxpayer-subsidized credit unions' fields of membership and commercial lending powers to include low-income and underserved areas, without subjecting credit unions to proper documentation or oversight to determine if low-income people are served. Credit unions are not subject to the Community Reinvestment Act (CRA) and have failed to serve people of modest means or implement formal documentation of service to low-income individuals. This controversial bill has no bipartisan support and should not be considered during the Lamé Duck session.
- **No surprise tax increases.** ICBA urges Congress to oppose any harmful tax increases during the Lamé Duck session. Tax increases of any form carry the potential for significant economic harm during a downturn and should be thoroughly vetted before enactment.
- **Oppose exemptions or expansions of the Farm Credit System.** The Farm Credit Administration Independent Authority Act (H.R. 7768) exempts only the tax-advantaged Farm Credit System (FCS) from regulations issued by the Consumer Financial Protection Bureau (CFPB) and put into effect after January 1, 2021, including the rule under Sec. 1071 of the Dodd-Frank Act (small business data collection). This outcome would grant FCS lenders an even greater competitive advantage over community banks.

Thank you for your consideration. ICBA urges Congress to consider the recommendations above as you take up necessary funding bills during the Lamé Duck session.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the United States Senate
Members of the United States House of Representatives