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June 21, 2022

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Re: Bills Scheduled for Markup

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of ICBA and the nearly 50,000 community bank locations we represent, I write to set forth our views on legislation scheduled for markup June 22.

Support the Close the ILC Loophole Act (H.R. 5912)

H.R. 5912 is priority legislation for ICBA and community banks. **We urge all members of the Committee to vote YES on H.R. 5912 and to oppose any amendments. The current text of the legislation reflects numerous compromises among stakeholders, including grandfathering existing industrial loan companies (ILCs) and providing time for pending applications to be approved. Further amendments would only create more loopholes and potentially derail this critical legislation. ICBA does not support a moratorium on new ILCs, which would only delay an urgently needed permanent solution.**

Industrial loan companies are the functional equivalent of commercial banks, engaging in a broad range of consumer and business credit and other financial services on a nationwide basis. However, ILCs exploit a loophole in the Bank Holding Company Act to evade consolidated supervision and thereby create a threat to safety and soundness. With the real possibility of an economic recession in the coming months, which could trigger widespread defaults on both commercial and consumer loans, policy makers must act now to address the systemic risk created by ILCs. Further delay would be irresponsible and short sighted.

Commercial ownership of ILCs creates an additional threat. ILCs owned by non-financial, commercial firms are an exception to long-standing American policy of separating banking and commerce. This policy is fundamental to a prosperous and diverse economy. Bank independence from commercial activities is essential to their ability to assess risk and create fair access to credit based on credit worthiness and economic potential. Credit allocation would be jeopardized if commercial firms were allowed to own or control banks or their functional equivalents. In an era of Big Data, social media and e-commerce conglomerates, artificial intelligence, and financial technology, mixing banking and commerce creates a new dimension of risk to consumer privacy, price manipulation, and fraud.

H.R. 5912 would address the significant risks created by ILCs by amending the Bank Holding Company Act to permanently close the ILC loophole while grandfathering existing ILCs.

The Nation's Voice for Community Banks.®

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ICBA strongly opposes two bills scheduled for markup. Our concerns with these bills are specified below.

The Overdraft Protection Act (H.R. 4277)

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 will not address or stop fees and additional consequences for missed or late payments levied by landlords, medical insurance, utility companies, childcare, and other payment stakeholders.

The Small Business Fair Debt Collection Protection Act (H.R. 6814)

H.R. 6814 is misguided legislation that would make it more difficult for community banks to communicate with struggling small business debtors in order to renegotiate debt and provide relief. Importantly, H.R. 6814 would not relieve small business owners of debt.

The hurdles to communication H.R. 6814 would create would increase the likelihood of litigation which would be more costly for borrowers than direct communication with creditors. H.R. 6814 is not in the best interest of small business debtors.

ICBA urges all members of the Financial Services Committee to vote NO on H.R. 4277 and H.R. 6814.

Thank you for your consideration.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the House Financial Services Committee