May 14, 2015

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Mail Stop 9W-11
400 7th Street, SW
Washington, D.C. 20219

Re: Regulatory Review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), Docket ID FFIEC-2014-0001

Dear Sirs:

The Community Bankers Association of Illinois ("CBAI"), which proudly represents approximately 380 Illinois community banks, appreciates the opportunity to provide our observations and recommendations regarding your review of regulations as required under Section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA"). The identification of outdated, unnecessary, or unduly burdensome regulation of insured depository institutions is important for reducing the stifling regulatory burden particularly on community banks. CBAI urges regulators to act swiftly to identify and implement changes in regulations that will help ease this growing burden which threatens the survival of many community banks.

Initial Observations and Recommendations

At the outset and throughout this two year regulatory review process, CBAI recommends regulators not view regulation as equally applicable to all insured depository institutions; rather the view should be increasingly towards advancing the concept of tiered and proportional regulation.

The financial crisis clearly demonstrated that the risks taken by Wall Street mega banks are very different from those of community banks, and they should not be regulated in the same way. The regulatory burden imposed on community banks by a one-size-fits-all approach also ignores the disproportionate burden of regulations on community banks. Additionally, credit unions, Farm Credit System lenders and other non-bank financial service providers are not subject to the same laws and regulations as community banks. This discrimination among financial institutions, specifically against community banks, places them at a significant competitive disadvantage.

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank" or "Act") laid out a plan for applying separate supervision, capital, and liquidity requirements to the mega banks. In the Act and elsewhere, tiered regulation for community banks has established a welcomed and necessary beachhead. Dodd-Frank exempts community banks from the supervision and enforcement of the Consumer Financial Protection Bureau (CFPB) and shields community banks from increasing the deposit insurance fund reserve ratio from 1.15% to 1.35%. The Basel III regulations allow community banks to use Basel I mortgage risk weights, exclude AOCI from the definition of regulatory capital, grandfathers tier one treatment of TruPS for banks under $15 billion (and allowed an additional year for compliance). The CFPB also made special accommodations for community banks in the Ability-to-Repay/Qualified Mortgage (QM) rules for small creditors (community banks) and those operating in "rural" and "underserved" areas.

CBAI urges regulators to expand this beachhead and continue to refine a tiered regulatory system to ensure that every regulation clearly distinguishes and appropriately regulates community banks.

Prompt Corrective Action (PCA)

The Federal Deposit Insurance Corporation Improvement Act of 1991 (“FDICIA”) created the Prompt Corrective Action (“PCA”) framework embodied in section 38 of the Federal Deposit Insurance Act (FDIA). In accordance with the mandate of the FDICIA, the banking regulators conducted joint rulemaking and adopted uniform rules to implement the PCA statutory framework. These rules established capital ratio criteria for the five capital categories under the statutory PCA framework and set forth the mandatory and discretionary actions for the regulators to address problems of banks in each capital category. Under the statutory PCA framework the banking regulators are charged with the identification of problems of financially troubled banks at an early stage. The boards of directors and management of financially troubled banks are required to take prompt corrective action as directed by the relevant agencies to remedy identified deficiencies.

CBAI is disappointed and concerned that banking regulators did not and likely will not in the future enforce PCAs equally between community banks and too-big-to-fail (“TBTF”) banks. The statistics regarding PCA are revealing and disturbing. During the past financial crisis banking regulators issued 1,400 PCA (enforcement actions) against community banks, but not a single PCA was issued against a bank that exceeded $30 billion in total assets. This occurred despite the fact that TBTF banks caused the mortgage meltdown and the ensuing financial crisis, and were the recipients of massive amounts of federal financial support, without which they would have failed; while community banks did not receive similar support and over 500 of them failed. This is evidence of a clear and disturbing regulatory double standard.

CBAI’s disappointment and concern about banking regulators’ failure to enforce the law and issue PCAs against TBTF banks is mirrored in testimony before the Senate Judiciary Committee by U.S. Attorney General (“AG”) Eric Holder when he all but admitted the U.S. has a two-tiered system of justice – one for them and another for everyone else. AG Holder stated, “I am concerned that the size of some of these [TBTF] institutions becomes so large that it does become difficult for us to prosecute them when we are hit with indications that if we do prosecute – if we do bring a criminal charge – it will have a negative impact on the national economy, perhaps even the world economy."

One the one hand, the Department of Justice ("DOJ") should be leading the charge to support the fundamental American constitutional right of "equal justice under the law", but apparently it is not with respect to TBTF banks. To the contrary, the DOJ has not been prosecuting crimes stemming from the financial crisis. On the other hand, banking regulators should be complying with the law and equally pursuing PCAs against all banks, including TBTFs which fall below certain minimum capital levels. To the contrary, banking regulators did not issue PCAs equally, favoring TBTF banks while discriminating against community banks.

Community banks and American taxpayers require, but have yet to receive, an honest explanation by the banking regulators about why PCAs were rained down on the nation's community banks but none on the TBTF banks. CBAI urges an absolute commitment from banking regulators that in the future the laws regarding PCAs will be equally enforced so that no financial institution will be discriminated in favor of or against by virtue of its assets size. Additionally, if TBTF banks require future government support, this financial support must be discounted in determining compliance with the capital rules so that an otherwise failing TBTF bank will not escape the issuance of a PCA by virtue of the government assistance it received, while a community bank would be issued a PCA because it is not TBTF.

Community Reinvestment Act (CRA)

The Community Reinvestment Act (CRA) was enacted by Congress in 1977 and is intended to encourage depository institutions to meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods, consistent with safe and sound banking operations. The CRA requires that each insured depository institution's record in helping meet the needs of its entire community is evaluated periodically. That record is taken into account in considering an institution's application for deposit facilities, including mergers and acquisitions. CRA examinations are conducted by the banking regulators that are responsible for supervising depository institutions: FRB, FDIC, and the OCC. Community banks perform exceptionally well in CRA compliance and examinations precisely because the mission of community banks is to fairly serve all of their customers and communities.

Community bankers appreciated the July of 2005 implementation of an additional asset tier to determine the appropriate scope of CRA examinations and that the asset thresholds are indexed to the C.P.I. With this past change to asset thresholds in mind, CBAI urges the regulators to again modify the asset thresholds to reflect industry trends, particularly the consolidation among smaller institutions. Notwithstanding our deep and legitimate concerns about financial industry consolidation, these acquiring institutions are typically other community banks and savings associations with similarly positive histories of service in their communities and CRA ratings. In order to reduce the regulatory burden on these institutions CBAI urges the regulators to increase the intermediate small institution threshold from the current $305 million to $1.5 billion and the small institution threshold from the current $1.221 billion to $5 billion. CBAI believes this will provide significant regulatory relief to small institutions which are particularly impacted by the increase in regulatory burden.

CBAI continues to urge Congress to apply CRA to tax-exempt credit unions in a manner comparable to, and with the same asset size distinctions, as banks and savings associations. Multiple studies have found that credit unions are not even meeting the fundamental mandate of their charter to serve people of modest means. Congress must move towards more regulatory equity by applying CRA standards to all credit unions. CBAI urges the banking regulators to actively support this change to the CRA.

Presentation of Proposed Rules for Comment

Although not specifically related to the second group of regulations, CBAI urges all of the banking regulators to adopt the following in their future publication of rules for comment.

Depending on the length of proposed rule they can be read in as little as minutes to as long as many hours over several days. It would be helpful to the reader of proposed rules if, at the beginning, there were always a table of contents to enable the readers to know where they are and where they are going, and to refer back to sections at a later date as comments are being drafted. This would be a reader-friendly change by all of the regulators and would help minimize some of the frustration with the rulemaking process.

CBAI thanks you for this opportunity to provide our observations and recommendations regarding the review of regulations required under EGRPRA to identify outdated, unnecessary, or unduly burdensome regulations for insured depository institutions. If you have any questions or need additional information please do not hesitate to contact me at (847) 909-8341 or davids@cbai.com .

Sincerely,

/s/

David G. Schroeder
Vice President Federal Governmental Relations