



FEDERAL LEGISLATIVE PRIORITIES Winter 2023 / Spring 2024 (Full Version)

Inherent in all Independent Bankers Association of Texas (IBAT) federal legislative issues is the recognition and prioritization of community banks' unique value in American communities alongside addressing the unequal regulatory and compliance mandates that unfairly penalize this important sector of the U.S. and Texas economies.

Community banks, like most small businesses, are facing significant challenges on multiple fronts. IBAT applauds the commitment and resilience of these small banks in supporting their communities and customers. Their exemplary performance during the pandemic reinforced the value and critical importance of this sector of the banking industry on many levels.

The business models of community banks and the global financial banks and nonbanks are divergent. Congress and regulators should focus on business activities and risk profiles when determining appropriate regulatory treatment of various categories of financial institutions. While there is more regulatory scrutiny on the systemically important entities, all financial institutions (inclusive of credit unions and nonbanks) —regardless of risk profile or business activities—must adhere to the same basic set of rules and regulatory expectations.

IBAT has long pushed for a statutory recognition of the unique business model of community banks given the positive contributions of these institutions. Community banks meet the needs of small business borrowers, work with low- to moderate income customers, contribute to their communities while creating jobs and economic activity in ways unmatched by other financial institutions.

IBAT supports:

- **Co-sponsorship and support of H.R. 1977/S. 2202, the ACRE Act.** IBAT supports the ACRE Act extending tax credits and deductions for community bank lending to small business borrowers, consumers in underserved communities and farmers and ranchers. In addition to providing some level of parity in competing with credit unions, Farm Credit System lenders and others, the benefits significantly help underserved and rural constituencies while providing a significant return on investment to the federal government.
- **Creation of a community bank-centric system of regulation and oversight.** Community banks spend a disproportionate amount of time and resources attempting to comply with an ever-increasing level of regulatory scrutiny in the consumer compliance area. IBAT strongly believes that consumers should be treated fairly, but also is of the opinion that the present environment is counterproductive and is making credit and banking services less accessible to those the government is purporting to protect. Further, this is clearly a result of a “one-size-fits-all” regulatory framework in which egregious behavior by some of the larger institutions has created a difficult environment for smaller banks. Recent accounting standards regarding loan impairment (CECL) are adding significant costs and burdens to community banks with questionable, if not nonexistent, benefits. Community banks should be exempted from the onerous requirements of this “solution in search of a problem” in our sector of the industry. BSA/AML compliance

continues to be a costly and aggravating burden for community banks. IBAT was extremely gratified with the changes to appropriately shift the “Beneficial Ownership” responsibility to the applicant/customer and require FinCEN to serve as the data repository and are hopeful of timely implementation. We believe that a significant increase in decades-old reporting thresholds would also be appropriate.

- **Co-sponsorship and support of joint Congressional Resolutions to nullify CFPB rule regarding small business lending reporting requirements.** The Consumer Financial Protection Board (CFPB) data collection rule on small business loans mandated by Section 1071 of the Dodd-Frank Act will have a deleterious effect on small business lending. The rule ignores the reality that U.S. community banks control a shrinking percentage of the overall banking assets yet make nearly half of the small business loans under \$1 million. These loans do not “fit in a box” and each is unique. In addition to the extra burden and expense to comply with these requirements, meaningful comparisons will simply not be possible and customer privacy will be affected. With small business loans making up a significantly higher proportion of total loans, costly and burdensome reporting will have a “disparate impact” on community banks and will ultimately lead to less credit availability for small business borrowers.
- **Regulatory and tax parity between credit unions and community banks.** IBAT strongly opposes credit union industry efforts to leverage their tax –exempt status to acquire community bank charters, enlarge commercial business lending authority, and raise capital from outside sources. Fixing the uneven playing field includes rent parity between banks and credit unions operating on military bases. Further, regulatory restrictions on the conversion of a credit union to a bank charter are significant and inappropriate. It is time to seriously examine the tax-exempt status and regulatory treatment of this ever-expanding sector that has become virtually indistinguishable from commercial banking.
- **Passage of H.R. 2891 / S. 2860, the SAFER Banking Act.** IBAT supports reasonable measures to allow a safe harbor for banks doing business with marijuana related businesses (MRB) in states where cannabis is legal. The House has passed the SAFE Banking Act times on a bipartisan basis. We encourage the Senate to promptly pass a similar bill in the 118th Congress to address these significant issues.
- **Expansion of data security requirements to all entities that handle sensitive data.** Data security breaches continue to be a significant and costly problem for all banks. We are supportive of requiring the same Gramm-Leach-Bliley standards banks must adhere to for all entities that handle sensitive customer data. Further, we encourage Congress to take the necessary steps to counter ever increasing threats in the cybersecurity space.
- **Liability protection for “end users” to fight abuse of patent system.** The ongoing proliferation of “patent assertion entities,” or “patent trolls,” continues to be a source of frustration and expense. IBAT strongly supports the very simple fix of exempting “end users”—those who simply purchase software or a product from a third party—from any liability for alleged patent infringement.

- **Co-sponsorship and support of H.R. 5912, the Close the ILC Loophole Act.** IBAT has consistently opposed the mixing of banking and commerce. Recent approvals and additional applications for FDIC insurance and access to the payments system through the chartering of an industrial loan corporation (ILC) by several fintech and commercial companies with a diverse array of other business lines are troubling. In addition to further tilting an already unlevel playing field to the detriment of community banks, small businesses, and individual customers we serve, such an arrangement would foster further consolidation and concentration in the industry, promote credit allocation, provide multiple avenues for consumer privacy risks and potentially create more risk to the FDIC fund. The FDIC should declare a moratorium on ILC insurance applications, and Congress should promptly close the ILC loophole.

IBAT opposes:

- **Opposition to the creation of a Central Bank Digital Currency (CBDC).** IBAT urges extreme caution and careful thought as Congress and the regulators attempt to address the ever-evolving cryptocurrency space. We remain strongly opposed to the creation of a Central Bank Digital Currency, which would undermine bank liquidity and access to credit nationwide.
- **Opposition to the creation of a “Post Office bank”.** IBAT opposes direct government competition with the private sector and is in strong opposition to the creation of a “post office bank”. Further, we are strongly opposed to any proposals authorizing additional direct lending by the SBA and encourage streamlined applications and documentation requirements to meet the needs of smaller borrowers.
- **Opposition to new interchange requirements (e.g. “Durbin-Marshall legislation”) for credit cards that hurt community banks** IBAT opposes the expansion of “Durbin” routing requirements to the credit card space, especially given the heightened risk of compromised network security and significant costs to implement such substantial changes in the payments system. We urge you not to choose to pad the profit margins of giant retail conglomerates over the interests of community banks and consumers.
- **Opposition to efforts to limit lending to certain businesses or sectors due to ESG agendas.** IBAT opposes efforts to require further analysis and evaluation of climate risk in the community banking space and believes that community banks are well-aware and experienced in dealing with potential disruptions and severe weather events. Further, legislative or regulatory directives to constrain lending to legally operating businesses or industry sectors are unacceptable in any form.
- **Opposition to mission expansion of tax advantaged GSEs into the private sector.** Farm Credit System lenders compete directly with community banks in numerous markets. These special-need lenders are now straying from their original purpose with loans to large entities and dubious ties to either agriculture or rural development. Tax-advantaged GSEs should not be competing with the private sector outside of their stated mission.