

January 24, 2011

The Honorable Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Schapiro:

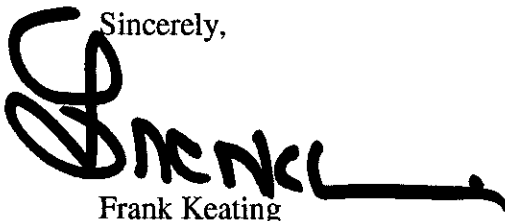


Thank you for your willingness to engage in dialog with the banking industry over important regulatory and policy issues. Much of what the SEC does bears significantly upon banks and the ability of banks to serve their customers and communities. There has perhaps never been a more crucial time for the shaping of the future of the banking industry than right now.

As you know, President Obama recently spoke out strongly for the importance of addressing regulatory burdens that impede economic growth and the creation of new jobs. As he instructed federal departments to take prompt action to address regulatory burdens, we believe that it is important that federal independent agencies take up a similar effort. The day after the President's announcement I sent him a letter congratulating him on his initiative, and I pledged the active efforts of the banking industry in support of that initiative. In my letter I shared some examples of actions that can and should be taken to relieve harmful regulatory burdens and promised that we would provide additional ideas to appropriate federal departments and agencies, including those not formally reached by his executive order.

In fulfillment of that pledge, I am including with this letter a list of regulatory relief steps that we would encourage the SEC to take up as soon as possible. I request that you and the members of the Commission give these suggestions priority attention in the spirit of economic growth and support of new jobs. I wrote to President Obama that, "Without quick and bold action to relieve regulatory burden we will witness an appalling contraction of the banking industry." I believe that and worry about it and fear what it means for local economies and our national prosperity. That is why I concluded my letter to the President with this affirmation: "The banking industry and the individuals, families, and businesses who are our customers need this effort to be successful." Thank you for your consideration of these proposals.

Sincerely,


Frank Keating

Selected Regulatory Relief Issues Within Jurisdiction of the
Securities and Exchange Commission

Issue	Description/What it Violates	Link to Jobs/How to Fix
Duplication of oversight of banks acting as custodians (and trustees) and investment advisors	Unnecessary and burdensome duplication of oversight and regulation: application of investment adviser custody rule and municipal adviser registration requirement to banks	The proposal fails to acknowledge the existing extensive supervision of banks by the banking agencies. Complying with new SEC supervision results in misallocation of bank resources away from lending, business generation and product and service innovation. Fix by exempting investment advisers from custody rule requirements if custody is maintained by a domestic regulated bank and permitting solicitation payments to banks without requiring municipal advisor registration
Municipal advisors	SEC adopted an interim final rule that requires all banks (among others) to register with the SEC if they provide advice in connection with municipal financial products. This could apply to routine, noncontroversial activities such as informing a city that it can get a better rate of interest on an MMDA than on a checking account.	The burden of becoming a registered municipal advisor may outweigh the benefits of continuing to provide services to municipalities. Fix by narrowing the definition of "municipal advisor" to focus on those activities that have been a source of problems.
Securities Exchange Act Registration for Small Firms	Small banks are required to register under the Securities Exchange Act once they reach a threshold of having 500 shareholders, a threshold not updated since 1964	Limitations on small business' ability to raise capital reduces job creation and product and service innovation. Fix by raising threshold to between 1500 and 3000 record holders
DFA – corporate governance	Proposes only disclosure relief rather than complete exemption from say-on-pay rules for small businesses	Mis –allocates resources that could be better directed to business generation and product and service innovation. Fix by exempting small businesses, including banks, from say-on-pay
DFA – entirely new derivatives regime	Rapidly and problematic order of rulemaking regarding new derivatives regime causing major uncertainty and potential market liquidity challenges	Uncertainty regarding products, market participants and market structure impedes bank and customer ability to engage in economic activity. Fix by extending the rule implementation periods (within CFTC/SEC discretion)
DFA – end user exception	Proposal fails to exempt small financial institutions as called for by Congress, and defines end user exception too narrowly	Potential inability for small institutions to continue to mitigate commercial risk could result in further reluctance to lend except under the most conservative

Selected Regulatory Relief Issues Within Jurisdiction of the
Securities and Exchange Commission

		<p>circumstances, and inadequate end user exception will increase costs on firms relying upon these derivatives to control costs and manage risks.</p> <p>Fix by exempting financial institutions <\$10b and by broadening the definition of end user to cover intended exceptions more fully</p>
ERISA and DFA Fiduciary Standard	<p>Rulemaking regarding fiduciary duty of providers to benefit plans has high potential for unintended consequences in light of concurrent conduct and duty rulemakings by SEC, MSR B and SEC</p>	<p>Failure of relevant agencies to coordinate efforts in establishing standards for market participants towards multiple constituencies will result in conflicting duties, could restrict risk mitigation and investment choice ultimately diminishing capital formation.</p> <p>Fix by suspending Department of Labor proposal to allow coordinating with all relevant agencies.</p>
Risk Retention	<p>Section 941 of the Dodd/Frank Act requires the federal banking regulators as well as HUD, FHFA and the SEC jointly to implement risk retention requirements for a number of asset classes, including residential mortgages. The regulators are further instructed to develop a definition of a "Qualified Residential Mortgage or QRM" which is to be exempt from risk retention requirements.</p>	<p>Imposition of the new requirements, especially if overly broad, will destabilize an already feeble mortgage market and will make it harder for community banks to lend as they will not have the capital or capacity for significant loan volumes. Regulatory changes under the TILA and policy changes by FHFA and the SEC have already imposed significant changes to mortgage underwriting. Reports indicate consideration of a high down-payment amount (of 20 or even 30 percent) for the QRM exemption.</p> <p>Fix: QRM status should be focused on loan and borrower characteristics not just on down payment and should take into account underwriting changes already required. The duration of risk retention requirements must be set at a reasonable level, so as not to constrain capital for long periods and further restrain lending capacity.</p>