

May 12, 2011

The Honorable Ben Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Chairman Bernanke:

The American Bankers Association (ABA) appreciates your keynote remarks at the Chicago Federal Reserve's Bank Structure Conference last week. I was particularly struck by your statement regarding a graduated approach to safety and soundness regulation. This is a concept that we believe is critical to a regulatory system that assures that banks of many different sizes, business models, risks, and structures will be able to offer competitive services to their customers in a safe and sound manner.

Whether legislated or regulated, we believe that arbitrary bright line cutoffs that are divorced from the factors driving the problem being addressed run the risk of creating incentives that are not based upon economics or rational business decisions. Resources may be shifted to managing the cutoff, not to managing the business. We agree, for example, with your comments that great care must be taken so that there is no discrete change in approach between a bank with assets just under the \$50 billion cutoff for being a "systemically important bank" and one with assets just above it.

ABA believes that the graduated or scalable approach has potential far beyond the appropriate differentiation among systemically important banks and those nearing the threshold. We believe that a graduated approach to regulation and supervision should be applied industry-wide in recognition of the great diversity among banks. Regulation and supervision should acknowledge and be implemented based on nature, scope and scale of bank, the complexity of its operations, the charter type, and the ability to absorb and manage risk. A notion that two sizes can fit all cannot lead to a successful regulatory system that encourages prudent risk-taking, innovation, and competitiveness. We believe that such a simplistic approach would prove destructive to the industry over time, creating regulatory advantages or disadvantages for banks independent of their true value to their customers and their communities. A finer calibration is needed, managed to avoid distortive effects across banks of all sizes, business plans, and types.

Application of a more finely tuned bank regulatory program is essential now with the enormous new obligations forthcoming under Dodd-Frank, which raise the cost of traditional banking, reduce the potential income, and make it harder to raise capital. Wherever I travel, bankers tell me about the stresses and difficulties they are having in dealing with the early phases of the Dodd-Frank implementation, and this does not include all the expected new burdens that will flow from restrictions on interchange income, new consumer rules, and greater reporting obligations. There is no question that community banks in particular feel they are at the very edge of survival with the avalanche of regulations rushing their way.

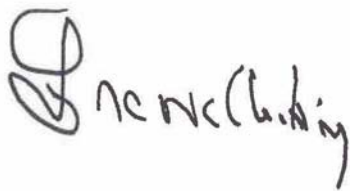
Regional banks are wondering what the new regulatory systems will allow their business model to be. Larger banks see the possibility of their businesses directed to fit into a government-mandated framework rather than one driven by customer needs and bounded by thoughtful risk management and supervisory oversight. Simply put, regulatory risk and uncertainty is rising and will have negative consequences on every bank.

We commend past efforts of the Federal Reserve to tailor specific supervisory activities based on the institution's legal structure, corporate strategy, activities, business lines, risks, and interdependencies. Implementation of such a supervisory approach is no small task in the best of times and has often been less effective than we all would wish. Now the challenge is even greater. We are very concerned that the new layer of regulations and restrictions from Dodd-Frank – implemented at breakneck speed without due regard for the range of impacts they will have across the spectrum of bank business plans – will overwhelm efforts to develop regulations that are scaled to our diverse industry. Such a path takes us in a direction towards a less flexible, more arbitrary approach to bank supervision. It is time to redouble efforts to tailor regulation and create an effective, graduated approach to supervision.

One of the greatest strengths of the U.S. economy and our banking system is its diversity, which enables banks of all sizes to respond to evolving consumer needs in an agile, innovative manner. Regulation and supervision should seek not only to preserve this diversity but to foster it. The enormous increase in regulation from Dodd-Frank escalates the risk that our regulatory system will suppress innovation and even reduce the viability of various charter options and business strategies. Such a result could significantly harm banks and their ability to serve their communities.

We believe that now is the time to engage in a discussion of how to mitigate the adverse impacts of new rules. We are confident that a flexible, effective, well-calibrated regulatory and supervisory program can be developed. Your comments on instituting a graduated approach are encouraging. I understand that you have called upon Governors Duke and Raskin to take a major role in ensuring that the Dodd-Frank regulatory effort does not create harm to community banks. We are eager to support their work and to sit down and discuss practical ways that a graduated approach might be implemented across banks large and small and everywhere in between

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Keating". The signature is written in a cursive, somewhat stylized font.

Frank Keating