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March 12, 2010

The Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Dodd and Ranking Member Shelby:

The American Bankers Association (ABA) appreciates the recent proposal to create the Small Business Lending Fund (SBLF) and the efforts to stimulate small business lending by investing in community banks. We concur with the goal of increasing lending to support small business growth and development, and we believe that community banks are particularly effective means for providing that financing. To enhance the possibility of the SBLF's success, we asked a number of our members who participated in the Capital Purchase Program (CPP) to identify the issues that would affect their interest in transferring from the CPP to the new program. We are providing these suggestions to you in an effort to help assure that, if enacted, the SBLF will reach its full potential.

An overarching concern we heard in response was that the new program not present "contract risk" – *i.e.*, the risk that the government will impose new restrictions after a contract has been signed. All terms must be established before an agreement is reached, and the parties must honor the terms as agreed. This is a bedrock principle of banking and of business in general, and it should apply with equal vigor to contracts with the government.

Other issues identified and suggestions offered include the following:

- The amount of “small business loans” should be measured by the dollar volume and number of new loans (including renewals).
- No penalty should be imposed on a bank that wants to transfer from the CPP to the SBLF.
- Investments made under the SBLF should count as Tier 1 capital.
- The government should do a better job of communicating the purposes of the SBLF than it did with the CPP to ensure that banks are not lumped in with non-bank recipients of government support.
- The SBLF needs to clarify the impact on outstanding warrants issued pursuant to the CPP.
- The SBLF needs to be clear on the reporting obligations that will be imposed and on whether the information reported will be publicly available.
- The program should be broadened to make the declining dividend rates available to banks that increase agricultural loans, consumer loans, loans to not-for-profit organizations, and small business loans.
- Banks that convert to the SBLF should be given credit for small business loans made during the period in which CPP funds were invested.
- The SBLF should be clear about the consequences (including from a financial and public relations perspective) to a bank if small business lending does not grow.
- Any dividend restrictions should be clarified.

There are, of course, a large number of banks that either chose not to participate in the CPP or were precluded from doing so. Resolving the issues identified above may encourage some of the CPP-eligible banks to participate. However, more must be done to make the potential pool of participants as broad as possible.

Many well-managed banks that are today experiencing capital stress would, with the Treasury investment, be well positioned to support small business lending. These same banks, without further capital, are finding themselves under regulatory pressure to reduce their assets and shed loans. We thus encourage you to design the SBLF so that banks that are viable on a post-investment basis may participate in the program.

One good measure of viability is a bank’s capital strength. A dollar of capital can support up to \$10 of loans, and capital can absorb losses if a loan defaults. The TARP program was designed to build on the benefits of capital leverage and loss

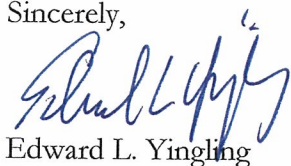
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absorption, but the TARP bar simply was set too high for most community banks. To avoid this problem, any bank that would meet the numerical thresholds of the Prompt Corrective Action definition of “well capitalized”¹ after receiving Treasury’s investment could be permitted to participate in the SBLF.

It is important that the program be approved and implemented as soon as possible, given the pressing need for economic recovery and job creation. The TARP agreements took far too long to develop and execute. For the SBLF to avoid similar problems, we recommend that the terms of the agreements be simple, uniform, and not subject to later changes. Moreover, we recommend that the program include a rebuttable presumption that Treasury will affirm eligibility decisions made by the banking agencies, and that all decisions regarding participation in the program be rendered within 60 days of a bank submitting an application.

We appreciate your consideration of these views and stand ready to provide whatever additional assistance you would find helpful.

Sincerely,



Edward L. Yingling

cc: Representative Barney Frank, Chairman, House Financial Services
Committee, United States House of Representative
Representative Spencer Bachus, Ranking Member, House Financial Services
Committee, United States House of Representative
Timothy Geithner, Secretary, United States Department of the Treasury

¹ The numerical thresholds for a bank to be considered “well capitalized” under the Prompt Corrective Action rules are 10% for total risk-based capital, Tier 1 risk-based capital of 6 percent or greater, and a leverage ratio of 5 percent or greater. We recommend that these numerical thresholds be used as reference points in evaluating viability.