Maryland Financial Consumer Protection Commission

Thursday, October 26, 2017

Written Testimony – Maryland Bankers Association

On behalf of our members, the Maryland Bankers Association (MBA) appreciates the opportunity to testify on the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 (DFA) and recent federal activity. Founded in 1896, MBA is the only Maryland-based trade group representing banks in the state. The approximately 100 banks operating in Maryland hold in excess of $136 billion in FDIC-insured deposits in 1,600 branches across the state. The banking industry employs about 40,000 banking professionals in Maryland. MBA's members include banks of all sizes and charter types including: Maryland state-chartered banks, national banks and thrifts, and state banks chartered outside of Maryland. We appreciate the opportunity to comment on the need for change, as MBA has been actively engaged and provided consistent feedback on regulatory changes for many years.

MBA views the Dodd Frank Act (DFA), not as an unfixable creation that needs to be repealed, but rather one that has implementation issues and that needs review and modification. The new regulatory environment has changed the uniqueness of the community banking model – it's not a commodity business – the ability to serve customers' unique needs is hampered by the inflexibility of the rules. From a practical perspective, under the current regulatory landscape, the related risk is frequently greater than the benefits for Maryland community banks. As a result, community banks have had to adjust what they are able to do for their customers. In fact, some Maryland community banks have exited the residential mortgage lending market altogether.

The timing is appropriate to review the DFA and assess where the opportunities are for the most meaningful, beneficial change. There is bipartisan support for select modifications to the DFA, particularly issues that could be addressed through regulation rather than through a statutory change. As highlighted in the attached MBA Executive Summary of *MBA Member Survey – Regulatory Challenges for Community Banks and Key Community Bank Concerns related to the Dodd Frank Act or its Implementing Regulations*, many of the issues/concerns our members have identified could be addressed through regulatory changes. Additionally, both the CFPB and the Treasury are taking steps to review and asses the DFA. In May, 2017 the Consumer Financial Protection Bureau (CFPB), started its five-year review of several of the major mortgage rules. This five-year review is mandated by Congress in the Dodd-Frank Act. The review is an important opportunity to assess what has worked and what has not (for example, overly burdensome or outdated provisions). In June, 2017 The Treasury Department issued a report making dozens of recommendations for how Congress and regulatory agencies can streamline bank regulation in a way that promotes economic growth.

While the range of issues covered in the DFA and other regulatory changes are vast, for the purposes of this Commission meeting, MBA's testimony is focused specifically on challenges and recommended changes in the residential mortgage lending area. While MBA supports a strong and balanced regulatory environment that protects consumers, the pendulum has swing too far and reforms are needed. For example:

- ***Very few solutions for borrowers who don't fit within the qualified mortgage (QM) rules****.* *QM rules have changed the way community banks do business. Flexibility in underwriting, certainly one of the defining characteristics of community banking, has been severely limited by the expanded liability imposed by QM. Banks have been reluctant to stray outside of the prescribed underwriting lines for fear of incurring this potential legal exposure.*

- ***The traditional way that our members work with their borrowers when they are building a home through a loan package that includes a construction/permanent loan has been severely hampered by new TRID rules.*** *The Dodd Frank Act required the CFPB to propose a rule that combines and integrates the disclosures under the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). TRID's implementation remains a great challenge to the real estate finance industry. Construction loans are very difficult as TRID does not address these fully. A number of MBA member banks reported they no longer offer construction/permanent mortgages due to the complexity of TRID disclosures.*

- ***Data reporting overreach is driving community banks out of residential mortgage lending.*** *MBA member banks frequently cite the data field expansion of the Home Mortgage Disclosure Act (HMDA) reporting to areas not related to mortgage lending as a top concern. The regulatory implications of even a minor clerical mistake in reporting are significant. Community banks have had to expand their staff and third-party resources to ensure HMDA reporting accuracy in an already complicated reporting system. Adding to that regulatory pressure with numerous new fields of information is untenable.*

In closing, while the impact of the DFA is vast and at the national level, it's important to recognize that the impact of the regulatory challenges is particularly poignant on community and regional institutions, including Maryland headquartered institutions. These institutions struggle in a very challenging regulatory environment. As evidence of this struggle, the number of Maryland-headquartered banks - which are all community banks - dropped 43% from 95 banks in 2008 to 54 banks in 2017.

We are pleased to have been invited to participate in today's meeting to emphasize two points:

1. The MBA does not support repeal of the Dodd Frank Act. However, now that many of its measures have been in place for several years and we see the impact of unintended consequences, changes are warranted. Today our focus is on the mortgage arena and the availability of credit.

2. While the Commission's purpose is to consider changes to the Dodd Frank Act and mitigating them, we ask that the Commission view its undertaking to also explore those areas where change to the DFA and its implementing regulations is warranted in order to help Maryland consumers. The Commission could have a powerful voice in appealing to Maryland's Congressional delegation and to the CFPB and the other banking regulators on issues of concern. The Maryland Bankers Association stands ready to work with the Commission and other stakeholders to further explore these and other issues.

Attached resource materials:

- October 20, 2017 Special to the Daily Record article by Nick Stern: *Maryland Banks still nurse hopes for Dodd-Frank Changes*
- Executive Summary: *MBA Member Survey – Regulatory Challenges for Community Banks and Key Community Bank Concerns related to the Dodd Frank Act or its Implementing Regulations*
- American Bankers Association's white paper entitled: *Mortgage Lending Rules – Sensible Reforms for Banks and Customers*
- American Bankers Association's Letter to the Bureau of Consumer Financial Protection's Request for Information Regarding Ability-to-Repay/Qualified Mortgage Rule Assessment