CBAI's 2022 Federal Legislative and Regulatory Policy Priorities

The Community Bankers Association of Illinois (CBAI) supports fair competition for financial services, tiered regulations, the separation of banking and commerce, the dual banking system/charter choice, and financial innovation; and opposes discrimination favoring certain financial service providers, banking industry consolidation, and systemic risk. Based on these guiding principles, CBAI has identified the following 2022 Federal Legislative and Regulatory Policy Priorities, which if implemented, will help community banks thrive and better serve their customers and communities.

Support the Community Bank Response to the Continuing Challenges Caused by COVID-19 and Assistance in the Country's Recovery from the Pandemic

Support the Independent Community Bankers of America's (ICBA) Agenda for the Second Session of the 117th Congress – an Opportunity for Enduring and Bipartisan Support

Support Additional Meaningful Regulatory Relief for Community Banks

Support the Community Bank Position on Credit Unions and **Oppose** Their Expanded Powers

Support the Community Bank Position on the Farm Credit System and **Oppose** its Expanded Powers

Support Closing the Industrial Loan Company (ILC) Regulatory Loophole

Support the Federal Reserve's Role in Payments System Improvement (FedNow Service)

Support Modernizing the Community Reinvestment Act (CRA)

Support a Federal Safe Harbor for Banking Cannabis-Related Businesses

Support De Novo Community Bank Formation, the Dual Banking System, and Charter Choice

Support Sound Principles for Housing Government Sponsored Entity (GSE) Reform

Support the Federal Home Loan Banks (FHLBs)

Support Agriculture and Rural America

Support Enhanced Data, Cyber and Payment Card Security (Data Security)

Support Consumer Financial Protection Bureau (CFPB) Reform and Meaningful Exemptions for Community Banks

Support the Community Bank Positions on New and Emerging Issues

- Leadership for Bank Regulatory Agencies (Administration, Congress, and the Agencies)
- Fintechs and Innovation in Financial Services (Congress and the Agencies)
- Special Purpose National Banks (SPNBs) (OCC)
- Digital Assets – Crypto Currency, Central Bank Digital Currency (CBDC), and Stablecoins (Congress and the Agencies)
- IRS Reporting Plan (Administration, Congress and Treasury)
- SBA Direct Lending (Congress)
- Financial Inclusion (Congress and the Agencies)
- Postal Banking (Congress)
- Public Banking (Congress)
- Current Expected Credit Loss Model (CECL) (FASB and the Agencies)
- Customer Data Sharing (CFPB)
- Small Business Data Collection (CFPB)
- Nonsufficient Funds (Overdraft) Policies and Practices (OCC and the CFPB)
- Reporting Beneficial Ownership Information (FinCEN)
- Financial Transaction Tax (Congress)
- Climate Risks (Administration, Congress, and the Agencies)
- Bank Merger Activity (Congress and the Agencies)

Finally Address the Risks of Too-Big-To-Fail Banks and Financial Firms to Protect Our Financial System, the Economy, and American Taxpayers from Future Bailouts

CBAI's 2022 Federal Policy Priorities

Priority Details

Support the Community Bank Response to the Continuing Challenges Caused by COVID-19 and Assistance in the Country's Recovery from the Pandemic

The COVID-19 pandemic has focused community bank efforts on helping their individual and small business customers and communities weather the virus crisis and to assist in the recovery. As we adapt to the new normal of seemingly perpetual uncertainty, community banks will continue to do what they do best in times of stress – provide essential financial services in a professional manner with genuine empathy.

Community banks led the financial service industry in the Small Business Administration's (SBA) Paycheck Protection Program (PPP) lending, which provided small business with the funds necessary to survive, and they were the trusted depository for individual and family benefit checks (Economic Impact Payments (EIPs) and Child Tax Credits (CTCs). This commitment was above and beyond what is normally expected, but one which community bankers were happy to fulfill.

While doing their part in these troubled times, community bankers continue to find themselves unfairly competing on a unlevel playing field against the largest banks, credit unions, Farm Credit Service lenders, and an increasing host of new financial technology companies (fintechs), which are not subject to the same rigorous regulatory compliance burdens as community banks. Community banks have earned reasonable regulatory accommodations, which would level the playing field in recognition of their extraordinary commitment to responsibly providing essential banking services. CBAI believes the reasonable accommodations detailed below will help overcome the many challenges they face and enable them to more fully serve the financial services needs of their customers and communities.

Support the Independent Community Bankers of America's (ICBA) Agenda for the Second Session of the 117th Congress – an Opportunity for Enduring and Bipartisan Support

The importance of community banks cannot be overstated, as they serve their customers and communities honestly and with respect and make approximately 60% of small business and 80% of agricultural loans, despite having less than 20% of total banking assets. During the COVID pandemic, community banks exceeded all expectations, despite persistent operational lapses by the SBA, and –

- Were the predominant PPP lenders, serving 57.5% of all PPP recipients.
- Provided the most loans to minority-owned, women-owned, and veteran-owned small businesses.
- Made 98.2% of loans in low-income or economically distressed counties.
- Processed PPP loans five to 10 days faster than other lenders.
- Saved jobs in many critical areas of the economy.

Community banks operate with more than 50,000 locations in 600 counties; and in nearly one in five counties, a community bank is the only physical banking presence.

CBAI joins the ICBA in supporting a more efficient system of rules and regulations, unbiased laws governing the financial sector, a safer and more secure business environment, and more efficient agricultural policies to support the nation's economic growth and development in all parts of the country.

Support Additional Meaningful Regulatory Relief for Community Banks

There are several important opportunities to tailor rules and regulations for community banks while still maintaining rigorous compliance and safety and soundness standards. One such opportunity is to modernize reporting thresholds for the Bank Secrecy Act (BSA), which were originally set in 1970, by raising the Currency Transaction Report (CTR) threshold from $10,000 to $30,000, and indexing future increases on an annual basis; and increasing the Suspicious Activity Report (SAR) threshold from $5,000 to $10,000, while retaining the reporting requirement for any insider abuse.

As good citizens, community banks are proud to fulfill their responsibility to identify and report illicit actors but doing so comes with a significant cost of compliance, which has been estimated at 2% of operating expenses for small banks. These costs should be offset by a tax credit for community banks to compensate for a regulatory compliance burden which falls hardest on them, not the largest banks.

Also, the government-provided relief measures (PPP, EIPs and CTCs) have resulted in significant increases in the total deposits of community banks, which have reduced their all-important regulatory capital ratios. In response to this development, regulators temporarily relaxed the community bank leverage ratio (CBLR), but this accommodation expired at the end of 2021. The problem of elevated deposit levels is beyond the control of community banks. They have not returned to normal levels, yet this additional regulatory burden has returned. The simple solution is for the banking regulators to extend the 8.5% CBLR until the end of 2022 (or longer if necessary) to ensure that community banks do not have to cut back on lending or shrink their balance sheets to comply with the higher capital requirement.

Support the Community Bank Position on Credit Unions and Oppose Their Expanded Powers

Credit unions have long-since strayed from their founding purposes, weaponizing their competitive advantages, and are virtually indistinguishable from tax-paying community banks. The National Credit Union Administration (NCUA), the "cheerleader regulator" of credit unions, fully supports the expansionist agenda by virtually dissolving the field of membership limitations and now giving credit unions the authority to raise capital through the sale of subordinated debt to outside investors. This misguided support, combined with permissive oversight, have allowed the credit union industry to grow at an alarming rate. Much of this growth is a blatant end-around Congressional intent for credit unions to serve individuals of modest means and with a common bond. Credit union expansion must not only be halted – it must be reversed.

Credit union acquisitions of community banks are a disturbing abuse of the tax code, which also exacerbates consolidation among financial institutions, negatively impacts all taxpayers, and reduces consumer choice. In 2021, a troubling milestone was passed, with over 100 taxpaying banks being acquired by credit unions. Every credit union purchase of a community bank diminishes tax revenues and further solidifies this publicly subsidized sector of the financial services industry. The lost tax revenue harms local schools, hospitals, and other projects that are necessary to sustain local communities. The inequity of these acquisitions is compounded by the fact that credit unions are not subject to the same regulations as community banks, including the Community Reinvestment Act, which encourages banks to meet the needs of low- and moderate-income communities.

This blatant and continued discrimination against community banks must end. Congress has avoided taking sides on credit union issues but not taking a position unfortunately benefits credit unions to the detriment of community banks. There are incremental options available to begin to address this inequity. For example, allow tax credits or deductions for community banks' lending to small businesses, farmers and ranchers, homebuyers, and low- and middle-income individuals. Tax the largest and most growth-oriented and bank-like credit unions. Tax the exorbitant credit unions marketing expenditures (i.e., stadium naming rights) and unreasonable executive salaries, and allow states to tax federal credit unions. CBAI supports a recent drive to tax credit union acquisitions of community banks with an "exit fee" equal to 10% of the value of the acquired bank's assets or liabilities (whichever is greater), which would be paid by the acquiring credit union to capture part of the lost value of taxes

that would have been paid by the bank had it remained independent or been acquired by another taxpaying bank. Congress should also convene hearings on the credit union tax exemption and financial service industry consolidation where these issues can be explored and addressed.

This escalation of credit unions weaponizing their tax-exemption should prompt Congress to "Wake Up" and act - NOW. This continuing abuse is an existential threat to community banks and the communities they serve.

Support the Community Bank Position on the Farm Credit System and Oppose its Expanded Powers
The Farm Credit System (FCS) has long-since strayed from its founding purpose, weaponizing its competitive advantages against community banks. The FCS is supported in its expansionist agenda by its "cheerleader regulator," the Farm Credit Administration (FCA).

With $407 billion in assets, the FCS is effectively the ninth largest bank in the country. Yet, the FCS operates outside of safety and soundness supervision and examination by the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Comptroller of the Currency. In addition, the FCS is not subject to Congressional oversight by the U.S. House Financial Services and the U.S. Senate Banking committees. Also, the FCS is not accountable for compliance with the same rules and regulations as banks, including the Community Reinvestment Act.

The FCS is the only government sponsored entity (GSE) that competes directly with community banks. Its lenders leverage their tax and funding advantages as a GSE to steal away many of the best agriculture loans from community banks, which is contrary to their mission of serving young and beginning farmers and ranchers. This blatant and continued discrimination against community banks must end, FCS competitive advantages must be reined in, and the playing field must be leveled for community banks.

Support Closing the Industrial Loan Company (ILC) Regulatory Loophole
CBAI has consistently supported the long-standing American policy of prohibiting the mixing banking and commerce, which ILCs represent, because of the risks they pose to the financial system, our economy, consumers, and American taxpayers. ILCs are the functional equivalents of full-service banks and as such should be properly regulated. The risk posed by ILCs is a regulatory loophole that allows their holding companies to escape from being supervised and regulated by the Federal Reserve. Completely closing this loophole will be an important safeguard to the financial system and the FDIC's Deposit Insurance Fund in times of economic stress.

CBAI supports H.R. 5912, the Close the ILC Loophole Act. The passage of this legislation is particularly important now as large technology companies like the Japanese e-commerce giant Rakuten (which has been dubbed the *Amazon of Japan*,) are eying ILC charters as a way to enter the banking industry and enjoy its many benefits without their holding companies being subject to consolidated Federal Reserve supervision. These new big data, social media, e-commerce, artificial intelligence, and financial technology companies extend an ominous reach into individuals' economic lives, with personal privacy and conflict of interest concerns. Policymakers should not allow the mixing of banking and commerce and closing the ILC loophole will prevent harming consumers and the financial system.

Support the Federal Reserve's Role in Payments System Improvement (FedNow Service)
Individuals and businesses have a fundamental economic need to pay and be paid. A fast and secure payments system must be the very foundation of a strong and vibrant banking and financial services system and our economy. The FedNow Service, which is now set to launch in 2023, will be a payments system improvement that will give recipients full access to funds within seconds.

The United States payments system must be modernized to meet the demands of consumers and to keep pace with the rest of the world. The payments system must not be monopolized by The Clearing House and its 25 large bank owners. The mega banks endangered our financial system and the entire economy during the financial crisis and were rescued by unprecedented government bailouts. They absolutely must not be given monopoly power over real-time payments. Community banks, consumers, and small businesses must rely on the Federal Reserve

to provide access to a safe and secure payments system, which requires the Fed to play a preeminent role in system improvements.

The FedNow Service should be implemented as quickly as possible with robust capabilities; the Service should be interoperable with other payments systems; and should only be accessed by regulated financial institutions. The likes of Amazon, Walmart, and the many fintechs which are clamoring for direct access to the payment rails must be denied this access to protect the security and stability of the payments system. Policymakers must support the Federal Reserve in its development of the FedNow Service to ensure that all participants have access to this real-time system on a fair and impartial basis.

Support Modernizing the Community Reinvestment Act (CRA)

The CRA was enacted in 1977 and needs to be updated to incorporate new financial products and services delivered in modern ways. Community banks excel in the performance of their CRA compliance and examinations. This exceptional performance is indicative of their exemplary treatment of customers and communities and not weak compliance requirements or a flawed examination process that, as some would suggest, needs to be strengthened.

The modernization of the CRA must enhance the ability of community banks to serve their communities and must not impose on them any additional regulatory burden. All financial service providers must be subject to the CRA to reveal a complete picture of every financial institution's performance in serving their communities. A modernization of the CRA that does not encompass credit unions, Farm Credit System lenders, and fintechs (including the Office of the Comptroller of the Currency's (OCC) Special Purpose National Banks) will be a sham.

Unfortunately, the OCC proceeded in rulemaking on its own without the FDIC or the Federal Reserve. In May of 2020, the OCC issued its final rule, which was rescinded in late 2021. This rulemaking process was not productive and represented an unreasonable and unwarranted additional regulatory burden, which falls particularly hard on community banks. The challenge and imperative are for the OCC, FDIC, and Fed Reserve to agree to conduct joint CRA rulemaking to modernize, highlight, and retain the best parts of the original Act, and identify missed opportunities for additional credit. In successive rulemaking, CBAI has consistently urged the agencies to commit to tailoring the regulations, which must include a significant asset threshold exemption for community banks and to not increase their regulatory burden.

Support a Federal Safe Harbor for Banking Cannabis-Related Businesses

Without taking a position on the legalization of cannabis, CBAI supports a Federal safe harbor from sanctions for financial institutions that choose to serve legally compliant cannabis-related business (CRBs) in states where cannabis is legal. Allowing these businesses access to the traditional banking system and its services, versus operating exclusively in cash, is a public safety issue. Community banks need this Federal safe harbor because they also serve ancillary businesses that have commercial relationships with CRBs (i.e., accountants, landlords, and suppliers), as well as those employed in this industry. The money that is directly or indirectly received from CRBs should be considered tainted by a lack of a Federal safe harbor.

While a bipartisan bill passed the U.S. House in the 116th Congress, progress was stymied in the U.S. Senate Banking Committee. Unfortunately, this public safety legislation is viewed by the some as advancing towards the legalization of cannabis, and for others it did not go far enough by not addressing social justice reforms, or even legalizing marijuana. CBAI encourages Congress to pass narrowly focused and bipartisan legislation to enact a federal safe harbor for banking cannabis-related businesses in the 117th Congress.

Support De Novo Community Bank Formation, the Dual Banking System, and Charter Choice

Newly chartered (de novo) community banks are vitally important to maintaining a strong, growing, evolving and vibrant profession in the face of continued banking industry consolidation. CBAI concurs with Federal Reserve Governor Michelle Bowman's concern "that there will continue to be fewer de novo banks as well as a decline in the overall population of community banks," and agrees that "[t]hese banks are a key segment of the industry in that they provide financial services and products to a wide range of consumers and businesses."

Tragically, the FDIC virtually halted de novo community bank formation after the financial crisis. Over the past decade, only 44 de novo banks have been established, compared to the previous decade where in some years the number exceeded 100. Only recently has the FDIC again tried to get back on the right track, but now the challenges of the COVID-19 pandemic have made the approval and capital raising process even more difficult.

Many new banks must be chartered each year to help maintain the vitality of the community banking profession. CBAI agrees with Governor Bowman when she stated, "Looking to the future, policymakers need to appropriately refine the regulatory and supervisory framework to minimize unnecessary compliance costs for smaller banks and address impediments to [new] bank formations."

Hand in hand with renewed de novo bank formation is the importance of maintaining the dual banking system, which has served our nation well for over 150 years, where chartering and supervision is divided between the federal government and the states. Community banks should be able to choose the banking charter that best fits their unique business model. A banking system with multi-agency (state and federal) regulators and charter choice provides the necessary checks and balances on the immense power of the regulators, as well as improved rulemaking, as the benefit of each agencies' expertise and experience is brought to bear on complex and controversial issues.

Support Sound Principles for Housing Government Sponsored Entity (GSE) Reform

Reforms in government support for housing finance remains important to the future of the housing market and the U.S. economy. American homeowners have benefited from the critical role Fannie Mae and Freddie Mac (the housing GSEs) have played in helping finance homeownership for many decades. The GSEs have provided a steady and reliable source of funding for home mortgage lending through all economic cycles and in all markets. Community banks depend on the GSEs for direct access to the secondary market without having to sell their loans through larger financial institutions that compete with them. The GSEs allow community banks to retain the servicing of the loans they sell, which has proven to lower delinquencies and foreclosures. And, unlike other private aggregators or investors, the GSEs have a mandate to serve all markets at all times, which is critical to maintaining liquidity when markets are experiencing financial stress and private capital moves to the sidelines.

It has been well over a decade since Fannie and Freddie were taken into conservatorship. This seemingly endless and ongoing period of government ownership and control of the GSEs must come to an end, but Congress has been unwilling to act. In this interim period, and under the leadership of different directors with conflicting views on the appropriate role of the GSEs, its policies have swung from narrowing the mission, restricting programs, and building capital to privatize more quickly, to broadening the mission, adjusting programs, and building capital to address social and economic equity. These wide swings in policy and changing programs result in uncertainty in planning and implementation, and are an unnecessary and unwarranted regulatory burden, which fall particularly hard on community banks which are responsible residential mortgage lenders.

The necessary journey to exiting receivership begins with an end to sweeping GSE profits, which has kept them thinly capitalized. Retaining their earnings will allow them to build capital and prepare to exit government receivership and successfully operate within a broader housing finance framework. A bipartisan agreement is necessary on the proper role of the housing GSEs and the programs necessary to fulfill reasonable and consistent housing goals. CBAI, however, does not support reforms that would liquidate and distribute the GSE's assets, intellectual property, or infrastructure to the largest national lenders and Wall Street institutions. These divestitures would undoubtedly disadvantage community banks and diminish their residential mortgage originations, which would harm consumers.

Support the Federal Home Loan Banks (FHLBs)

Most community banks are members and shareholders of their regional FHLBs, which were created in 1932. The FHLB System is an admirable public-private partnership where the 11 regional banks provide short-term liquidity, long-term funding, mortgage-related products, and other financial services in order to help their owner-members weather crisis and provide affordable credit to support the local communities they serve. Each FHLBank

contributes a portion of its income to affordable housing and community development in their respective districts. The Federal Home Loan Bank of Chicago serves Illinois and Wisconsin.

The regional structure, special functions, and unique purpose of the FHLBs must be recognized and maintained by the Federal Housing Finance Agency (FHFA). As the Administration and Congress consider reforming the housing finance system, care must be taken not to harm the FHLBs. They are highly relevant today and must remain healthy, stable, and reliable sources of funding for their members. However, given their unique relationship with thousands of community lenders, it may be appropriate for the FHLBs to support their members' secondary market activities as aggregators or guarantors for residential mortgage loans, provided their current ability to serve their members is not impeded or threatened. Congress must not impose additional requirements or distributions of their income which would reduce their capital which supports their important services. Also, as the FHFA reconsiders long-standing eligibility rules for FHLB membership, it should not impose an ongoing housing mission asset test on FHLB members, which would undermine the certainty of membership and the reliability of FHLB funding.

Support Agriculture and Rural America

A vibrant rural economy is vital to America's prosperity. Community banks fund 80% of all agricultural loans and serve a crucial role in creating and sustaining rural economic prosperity. A multi-year Farm Bill provides a strong safety net for farmers and ranchers, including adequate price-protection programs and enhanced USDA-guaranteed farm and business loan programs. These programs must be protected from cuts and any adverse changes that would discourage farmer and rancher participation or undermine their private-sector delivery.

Community banks merit tax credits or deductions for interest earned on agricultural loans, for loans secured by agricultural real estate or primary residences in rural communities, small businesses, and loans to low- and moderate-income individuals and areas. CBAI supports the Enhancing Credit Opportunities in Rural America Act (ECORA) (H.R. 1977 and S. 2202), and the Beginning Agriculturalist Lifetime Employment Act (Bale Act) (H.R. 2186.) These tax and other incentives will help sustain and strengthen lending by community banks and help offset the competitive advantage held by FCS lenders and credit unions.

Support Enhanced Data, Cyber and Payment Card Security (Data Security)

The need for ever-increasing data security is paramount in financial services. The steady growth of e-commerce, and contactless/instant/electronic payments accelerated during the COVID-19 pandemic. Cyber criminals are well aware of these trends and are finding new and different ways to exploit weaknesses and commit cybercrimes.

Community banks are strong guardians of the security and confidentiality of their customers' information and are on the frontline of defending against cyber security threats. Unfortunately, many customers of the largest banks, financial firms and retail chains have been the victims of data breaches. Enhanced security standards should be enforced through a tiered system where the more restrictive rules are imposed on the largest members of the financial system and economy where their lapses pose the greatest threat to the largest number of consumers.

Core data security principals in standards enacted by legislation and regulations must include the complete cost of data breaches being borne by the party that caused the breach; all participants should be subject to verifiable Gramm-Leach-Bliley Act-like data security standards; and a national data security breach and notification standard should replace the current patchwork of state laws. Any new data security standard proposals should ensure that community banks are not burdened with having to reassess existing critical systems, and implement and comply with new regulations, only to achieve the same superior results they currently attain.

Support Consumer Financial Protection Bureau (CFPB) Reform and Meaningful Exemptions for Community Banks

Regulations promulgated by the CFPB must provide community banks with the flexibility to meet the needs of their customers. They must not be burdened with additional and unnecessary regulatory requirements that would prevent them from serving their customers and communities. A one-size-fits-all approach to CFPB regulations harms the successful community bank business model. The CFPB should not be unduly influencing marketplace

behavior by targeting financial institutions, products, services, and practices which it deems to be undesirable or inappropriate, and ignoring the law and what consumers really want.

In **reforming the CFPB**, the single director governance should be replaced by a five-member board or commission. A broader definition of firms that grant credit should be subject to the CFPB rules, and they should be robustly supervised and examined. The focus of any enhanced regulation of financial products should be on the largest banks and financial firms, the unregulated "shadow" financial industry, and fintechs.

The CFPB has the statutory authority under the Dodd-Frank Act (Section 1022) to **exempt any class of providers [community banks]** or any products or services from the rules it writes, as the Bureau determines necessary to carry out its purpose, but to date, the Bureau has inexplicably been far too restrained in doing so. The effective use of this authority will ensure community banks continue to be a healthy and safe alternative to large banks and not-banks for consumers seeking to use responsible financial service providers.

Support the Community Bank Positions on New and Emerging Issues

Leadership at Bank Regulatory Agencies (Administration, Congress, and the Agencies)
CBAI has traditionally not taken formal positions on Administration appointments and the confirmation of individuals to head the banking regulatory agencies. These individuals have historically been reasonably qualified while reflecting the political philosophy of the administration which nominated the candidates for their respective positions. Recently, nominees have held extreme views on the banking system and financial services and have advocated straying from the narrowly focused mandates of the agencies. Their nominations have increasingly caused unproductive political wrangling.

Radical shifts in policy are not sustainable, disrupt the delivery of consistent banking services, and represent an unnecessary and unreasonable regulatory burden which falls particularly hard on community banks. Nominees to head banking agencies should be qualified, hold reasonable positions, be willing to work collegially and cooperatively with colleagues and counterparts, serve the best interests of the banking and financial system and economy, and clearly understand the vital importance of and support community banks.

Fintechs and Innovation in Financial Services (Congress and the Agencies)
The pace of innovation in financial services was brisk before, and has accelerated during the COVID-19 pandemic. It includes application programming interfaces (APIs), banking as a service (BaaS), buy-now pay-later (BNPL), earned wage access (EWA), person to person (P2P) and business to business (B2B) payments. Many of these new services are predominantly being offered by financial technology companies – better known as fintechs.

Over five years ago, there was an adversarial relationship between banks and fintechs fueled in large part by their misguided belief that their innovative applications would quickly displace, and they would become the successors of traditional banks. Once fintechs realized the staggering hurdles of compliance with regulations, examination, and enforcement which they would be subject to, they quickly changed their approach. Now there is new-found enthusiasm by fintechs for working with but not replacing traditional banks. This refreshing new "partnering-with" attitude is particularly appropriate for community banks versus the mega banks, which have less of a need for these strategic partnerships because they are more likely to design and build their own proprietary applications and interfaces, or just buy the fintech(s) and make that technology their own.

Financial innovation presents community banks with challenges and opportunities which they are rising to meet. Policymakers should reasonably assist community banks to prepare for this new and evolving era, not pose any unreasonable requirements, and not give fintechs any competitive advantages over community banks by subjecting them to lesser regulatory requirements.

Special Purpose National Banks (SPNBs) (OCC)
The Office of Comptroller of the Currency (OCC) seems intent on issuing special purpose national banking charters to fintech companies, which raises many concerns. The very legal authority permitting the OCC to charter fintechs has been challenged by the Conference of State Bank Supervisors as being "fatally flawed." A single regulator acting unilaterally in the chartering, examining, supervising, and regulating fintechs is not in the best

interests of the banking profession, consumers, and the economy. Congress must provide the explicit statutory authority to charter fintechs. If the OCC moves forward, it must guarantee that fintechs will comply with all banking laws, rules, and regulations, and that they be held to the same rigorous safety and soundness standards (i.e., supervision, regulation, and enforcement) that are currently being required of community banks and bank holding companies. SPNBs cannot have the advantages of a national bank charter with limited requirements and liability.

Digital Assets – Crypto Currency, Central Bank Digital Currency (CBDC), and Stablecoins (Congress and the Agencies)

Cryptocurrency is digital money that is encrypted and maintained by a decentralized system using cryptography (secure communication) which is kept on a public ledger (blockchain) and with no central authority that maintains its value (i.e., Bitcoin and Ethereum.) **CBDC** is an electronic record or digital token of a country's official currency that is issued and regulated by that nation's central bank, and which is backed by the full faith and credit of the issuing government (i.e., Bahama's Sand Dollar and China's digital yuan.) **Stablecoins** are a bridge between crypto and CBDC as they are collateralized to provide security, and peg their value to an external reference (i.e., U.S. Dollar, English Pound or Euro) to achieve price stability.

Proponents of digital assets argue that they will enhance the public good by enabling the unbanked to participate in financial services. However, for many who are unbanked there is an absence of trust in financial service providers, a lack of funds, a preference for using cash, and inadequate access to computers and the internet – all of which undermine the supposed public benefits of digital assets.

Digital assets are a critical building blocks of *decentralized finance* (DeFi), which refers to blockchain-based applications that provide an array of financial services directly to consumers and businesses without intermediaries. The risks posed by these services are enormous, as well as the consequences for monetary policy, our financial system, and the banking industry. They also pose threats to the privacy and security of consumers and small business. Of great concern is that there is no single regulator responsible for this rapidly growing sector which combines elements of currency, payments, and investments, and there is insufficient transparency and lack of accountability in this ecosystem. Policymakers must cooperate and collaborate in the development and implementation of a comprehensive approach to ensure a consistent Federal regulatory framework that does not permit DeFi to offer "shadow" financial services or to threaten the essential and highly successful business model of regulated and responsible community banks.

IRS Reporting Plan (Administration, Congress, and Treasury)

The Administration, supported by Treasury and some in Congress, have proposed enhanced information reporting by financial institutions to the Internal Revenue Service (IRS) on individual and small business "account flows," to increase tax revenue, expose underreported income earned by the wealthy, and help pay for the Administration's spending plans. The initial proposed annual reporting threshold was $600.00. Later versions of the proposal were increased to $10,000.00 and some have recommended limiting the reporting to certain types of transactions. Policymakers must understand that reporting at any level requires the implementation of a monitoring and reporting programs, and that exceptions would only complicate the situation and increase an already enormous compliance burden on community banks.

From the customers' perspective, this IRS reporting requirement is unprecedented, misguided, raises serious concerns about government overreach, and is an invasion of their financial privacy. We are hearing from our members about their customers who know about this proposal. They are very concerned and they have discussed among themselves what actions to take to avoid being subject to this reporting – including withdrawing funds from banks. If implemented, this proposal will damage the trusted and beneficial relationship between community banks and their customers.

If the IRS wants to ensure greater compliance with tax laws, it can be accomplished by more appropriately using the existing tools and the wealth of information it currently possesses. CBAI opposes increased customer account information reporting by community banks to the IRS in any form – period.

SBA Direct Lending (Congress)

Community banks make approximately 60+% of small business loans, despite having less than 20% of total banking assets. The incredible importance of community banks was most recently proven during the pandemic where they exceeded all expectations at delivering much-needed Paycheck Protection Program relief to the nation's small businesses – including minority-owned, women-owned, and veteran-owned small businesses. It is with this incomparable performance by community banks in mind that we question why Congress would propose to authorize the SBA to directly "originate and disburse" billions of dollars of 7(a) loans.
Community banks and the SBA have a long, beneficial, and cooperative private sector/public sector relationship and SBA does not compete with banks in lending to businesses. The cooperative relationship between community banks and the SBA accomplishes two very important objectives – namely, the borrowers obtain much needed funds that they could not obtain without the SBA guarantee, and also the borrowers establish relationships with community banks. Importantly, over time these borrowers can transition away from government-assisted financing and to conventional borrowings within the established financial system. Direct SBA loans, while they may accomplish the first objective, fall short of the very important second objective.
In addition, community banks are far superior in establishing and prudently underwriting commercial lending relationships. The SBA's own Inspector General warned about the SBA's origination and disbursement of its Economic Injury Disaster Loans (EIDL), stating that "billions may have been fraudulently obtained or directed to ineligible businesses." Also, the SBA cancelled a previous direct lending experiment because the "subsidy rate" (a euphemism for losses) was 10 to 15 times higher than for their [private sector] loan guarantee programs. CBAI fears that the SBA's performance in originating and disbursing 7(a) loans will result in similar lapses, which will put billions of taxpayer dollars at risk of loss.

CBAI urges Congress to reject this ill-conceived proposal and support Congressman Blain Luetkemeyer's H.R. 6037, which is a bill that would prohibit the SBA from making direct 7(a) loans.

Financial Inclusion (Congress and the Agencies)
CBAI strongly supports financial inclusion and believes every responsible and able consumer and business should have a banking relationship with their local community bank. The fact that 95% of the population is "banked" (as reported by the FDIC and the Federal Reserve) is indisputable confirmation that the banking industry excels at serving the banking needs of American individuals and households. The challenge is to determine why 5% of the population remains "unbanked" even though remaining so is the more costly alternative and one that does not lead to a bright financial future. The additional challenge is to encourage those who are "underbanked" (approximately 15%) to become fully "banked."

CBAI supports government initiatives that educate consumers and encourage financial inclusion, but it is not the proper role of government to provide banking services to individuals either through the Federal Reserve, state-owned public banks, or the U.S. Postal Service. Providing banking services to individuals and businesses is the proper role of the private-sector banking system. However, government can assist the private sector in financial inclusion by creating tax credits or deductions to promote community banks offering basic bank accounts and small-dollar consumer loans especially to low- and middle-income consumers, which are those most likely to be un- or underbanked.

Postal Banking (Congress)
CBAI believes postal banking is misguided and views any entry by the USPS (Postal Service) into banking services as a significant government-sponsored, competitive threat to the viability of private-sector and tax-paying community banks. The practically insurmountable challenges for the Postal Service to deliver banking services is to install an entire infrastructure and develop the expertise of their employees to be qualified to deliver these specialized services. Developing these capabilities will involve a massive up-front investment, which will divert the focus of the Postal Service away from its primary mission of delivering the mail and successfully addressing its own persistent financial troubles.

The business of banking involves considerable risks, including credit, operational, compliance and reputational. The Postal Service currently possesses none of the required risk management expertise. For well over a century, community banks have experience in delivering banking services. They are highly proficient in protecting sensitive consumer financial data and assisting law enforcement and other agencies in combating money laundering, tax evasion and terrorist financing. The risk management systems at community banks are routinely examined for effectiveness and any necessary remediation is enforced by their banking regulators.

The capabilities to deliver financial services already exist in the nation's community banks. While the Postal System operates nationwide with an estimated 30,000 locations, the approximately 5,000 community banks have an even larger network of approximately 50,000 locations in urban, suburban, and rural communities. In many communities, the Post Office is located next door to or a short walking distance from a community bank. By better utilizing the vast network of community banks, which are already fully staffed by experienced and dedicated banking professionals, there is no need to, as the old saying goes, "reinvent the wheel."

Public Banking (Congress)
Community banks have been vital in supporting customers and communities both before and throughout the COVID-19 pandemic. Community banks are the backbone of our economy. Yet despite the existing and superior system of private-sector delivery of financial services through the banking system and community banks, some are proposing establishing accounts at the Federal Reserve where the public could deposit, store, transfer, and withdraw money directly with a FedAccount. This radical and misguided idea would disrupt the current existing and highly successful traditional banking industry. Ending banking as we know it by operating a Federal Reserve public bank is not the right course to follow.

The United States does and should have a capitalist economic system where the private sector predominates in generating economic activity and the longstanding role of government in financial services is to ensure the safety and soundness of the system and consumer protection through reasonable regulation, examination and enforcement. Examples of where the government can and does work cooperatively with banks for the benefit of the economy while enhancing safety and soundness of the financial system is where the SBA and the USDA guarantees loans private-sector banks could not otherwise make; where the FHLBank System provides the liquidity to private-sector financial institutions to support housing; and where the government distributed hundreds of billions in PPP relief for small businesses through predominantly private-sector community banks.

Implementing FedAccounts would require massive new and duplicative government infrastructure and technology investment. This new government system would pose retail-level operational and credit risks to the Federal Reserve, which it is not experienced with or equipped to handle, but which is already in place and operating efficiently and effectively in the private sector – particularly at community banks. FedAccounts would also be deleteriously impacted by political pressure exerted by successive administrations through their Board of Governor nominees.

Some states, including Illinois, have considered the idea of taxpayer-funded public banks. A state-owned public bank would pose unacceptable risks to its customers and taxpayers and displace community banks which are the backbones of their communities. State-owned public banks would replace the high-contact, timely decision-making, relationship-based community bank business model with bureaucratic delays, lack of accountability, and inefficiencies. State-owned public bank executives would be under political pressure of the elected state officials who appointed them. There would be an inherent conflict of interest between the state banking regulators responsible for safety and soundness oversight and the state-owned banks. And, in the unfortunate event these institutions would become troubled, a cash-strapped state like Illinois would be unable able to provide financial support without a taxpayer-funded bailout. Policymakers should focus on ways to support community banks located throughout the states by reducing their regulatory burden to help them meet the needs and better serve all consumers and small businesses.

Current Expected Credit Loss Model (FASB and the Agencies)
The Financial Accounting Standards Board (FASB) has approved significant revisions to the way community banks reserve for their loan losses (i.e., the Current Expected Credit Loss (CECL) Model) after robust community banker input. The revised CECL is now more flexible and scalable for community banks. Community bankers and Congress must continue to be vigilant to assure the Model implementation provides clear, practical, and easy-to-use methodologies for calculating loan losses, which can be seamlessly incorporated into existing processes for community banks. The original implementation date for compliance with CECL for most community banks was 2023 but was extended to 2024 because of implementation timeline concerns related to COVID-19.

Customer Data Sharing (CFPB)
There is a significant threat to the security of consumer data from the proliferation of fintechs seeking to access and use bank customer account information. The CFPB is responsible under the Dodd-Frank Act (Section 1033) to

promulgate this rule and in October of 2020, published an Advanced Notice of Proposed Rulemaking to which CBAI responded. CBAI expects the CFPB to propose a final rule in 2023.

While community banks support responsible innovation in financial products and services, maintaining the integrity and privacy of consumer data is only as strong as the weakest link. CBAI urged the CFPB to tailor the regulatory requirements for community banks, which have traditionally been exemplary stewards of customer data, to reduce their regulatory burden and cost, and ensure robust Gramm-Leach-Bliley Act-like data security requirements on other originators, holders, and users of customer data. These requirements on others must include severe penalties for noncompliance and they must provide ongoing proof that they are able to compensate consumers and community banks for their noncompliance and any losses related to data misuse, breaches, and fraud.

Small Business Data Collection (CFPB)
The requirement for reporting on applications for loans by small businesses, including women- and minority-owned businesses, stems from Section 1071 of the Dodd-Frank Act and is primarily meant to facilitate the enforcement of fair lending laws. The Bureau began its rulemaking on this section of the Dodd-Frank in 2017, which continued in 2020. The CFPB has proposed the Final Rule and CBAI responded in January of 2022, with its detailed comment letter.

The legislation requires reporting by "covered financial institutions" on applications by "covered small businesses." The Bureau proposed a greater than 25 applications threshold for financial institutions (not a bank asset threshold) and to include small businesses under $5 million in gross annual revenue for data reporting. CBAI argued that the regulatory burden for this small business data collection and reporting requirements fall disproportionately hard on community banks that lack scale and compliance resources. CBAI urged the Bureau to exempt from this rule community banks under $10 billion in assets and small businesses with annual revenue over $1 million. Additionally, CBAI urged the Bureau to only collect the mandatory data points required by the law, and to protect the privacy of small business borrowers.

Nonsufficient Funds (Overdraft) Policies and Practices (Congress, OCC, and the CFPB)
The trend in overdraft fee income has been declining as a result of CFPB's rules in 2010, which required banks to let customers opt-in to overdraft programs before charging fees. Contributing to this decline has been the innovative availability for customers to avoid being overdrawn to begin with by remotely accessing their account balances and activity and receiving automatic low-balance notifications. Customers have said they prefer banks pay and not return on overdrafts (despite being charged a fee) to avoid the embarrassment and inconvenience of items presented for payment being denied, being delinquent on a payment, paying a late fee, and potentially damaging his or her credit history.

CBAI does not support overdraft policies and practices that abuse consumers, but policymakers must accept that it is the consumer's responsibility to always know their account balance and not write checks or initiate debit transactions that would overdraw their account. There is a very real cost for processing overdrafts, which may include including returning the item through the entire payments system or paying the overdraft which creates the equivalent of an unauthorized, unsecured, and interest-free loan. Effectively managing risks associated with overdrafts is a safety and soundness regulatory requirement. CBAI recommends the OCC and the CFPB address any consumer abuse, differentiate between the overdraft policies and practices at community banks versus those at the largest banks, and acknowledge the consumers' responsibility for properly handling their accounts.

Reporting Beneficial Ownership Information (FinCEN)
CBAI supported a provision in the 116th Congress' National Defense Authorization Act (NDAA), which shifted the burden of collecting beneficial ownership information of community bank accountholders to the Financial Crimes Enforcement Network (FinCEN). The direct reporting of this information to FinCEN will enable law enforcement and tax authorities to coordinate their detection and enforcement activities more effectively. CBAI's engagement on this issue dates to 2012 and 2016, and we look forward to expeditiously removing this regulatory burden (through rulemaking in 2022) from the shoulders of community bankers and placing it where it belongs – with FinCEN.

Financial Transaction Tax (Congress)

CBAI believes tax laws should encourage and promote robust economic activity and a thriving community banking sector which fosters savings, lending, and investment. We oppose any new bank-specific fees, punitive new levies, transaction taxes, limitations on the deductibility of expenses and revenue offsets or "pay-fors" that target the banking industry. Rather, there should be parity among all financial service providers including credit unions, Farm Credit System lenders, and fintechs; there should be tax incentives for community banks serving low- and moderate-income individuals, small businesses, and small farms; and there should be a tax credit equivalent to the cost of community bank compliance with Bank Secrecy Act compliance in recognition of the law and tax enforcement functions that community banks perform.

Climate Risks (Administration, Congress, and the Agencies)
CBAI understands the importance of the risks and the impacts of climate change to the financial system, our economy, and beyond. However, CBAI opposes any climate change regulations that will adversely impact community banks and their ability to support their customers and communities including setting hard lending concentration limits on lending to fossil fuel or other carbon-intensive industries, stress testing or scenario analysis based on adverse climate change assumptions, and capital requirements based on climate risks.

Community bankers' high-contact and relationship-based lending model ensures that controls are in place to monitor customer relationships and risks on an ongoing basis. Beginning in 2024, community banks will have adopted the Current Expected Credit Loss model, which is the forward-looking loan loss methodology incorporatuing material risk assumptions in estimating loan losses – including climate risks. The CECL methodology and loan loss reserves are closely monitored by banks' state and federal regulators. As a result, additional separate climate risk stress testing, concentration limits, and capital requirements for community banks are duplicative and unnecessary.

Bank Merger Activity (Congress and the Agencies)
Recent challenges to bank merger activity stem from a Biden Administration Executive Order to promote competition. CBAI has long been concerned about consolidation in the banking industry. The biggest banks continue to grow excessively and control the vast majority of the nation's banking assets which have exacerbated already well known and significant financial stability concerns. Also, and as a result of crushing regulatory burden and an insufficient use of exemptions for community banks in rulemaking, the number of community banks has declined precipitously over the past decades.

Critics of current bank mergers cite their lack of public benefit, including diminished access to credit and retail banking services. While this maybe an issue for mergers of banks with hundreds of billions or trillions in assets, it is not an issue with community banks which admirably serve their customers and communities. Some community banks have found it helpful to merge with other community banks to be able to spread the significant and escalating costs of regulatory compliance, cybersecurity, technology, and innovation to remain highly competitive. New bank merger legislation or regulation should not apply to community banks. Rather, policymakers should seriously consider the impact on our financial system, economy, and American taxpayers by allowing the nation's mega banks, which are too big and unable to fail, to become even larger and more interconnected.

Finally Address the Risks of Too-Big-To-Fail Banks and Financial Firms to Protect Our Financial System, the Economy, and American Taxpayers from Future Bailouts
The financial crisis, taxpayer bailouts, and subsequent recession was caused by the misconduct of the nation's largest banks and financial firms. The Dodd-Frank Act was intended to reign-in their destructive behavior. Unfortunately, the Act and its implementation was an inadequate legislative and regulatory response, which has undeniably allowed these financial behemoths to grow in size, complexity, and influence. They will continue to abuse consumers and they will remain a significant threat to our financial system and economy. These megabanks and financial firms have proven, at great cost to American taxpayers, that they cannot be managed, supervised, disciplined, or prosecuted. They are clearly too-big-to-change, too-big-to-fail, and must be downsized. This necessary policy objective can be accomplished by separating the traditional deposit taking and lending activities of the largest banks from their speculative investment banking, securities underwriting, and market making activities. The time to act is now before the next financial crisis.

February 2022