American Bankers Association
Building Success. Together.

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The Honorable Mike Crapo
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Chairs Crapo and Waters and Ranking Members Brown and McHenry:

Thank you for your continued leadership throughout the COVID-19 pandemic to support consumers and small businesses. The CARES Act provided unprecedented relief to the American people, and banks are proud of the role they have played to help effectuate the law, assisting small businesses through the Paycheck Protection Program and families through loan modifications, fee waivers, forbearance and other support. In March, no one could have predicted the trajectory of the pandemic, and while various sectors of the economy have successfully and safely reopened, others remain stressed—just as the virus has entered a new phase and additional COVID mitigation restrictions are being implemented. The pandemic is not over, and sadly, neither is the economic pain felt by tens of millions of Americans.

We are encouraged that bipartisan negotiations continue, seeking agreement on additional, badly needed, economic relief. Importantly, we wish to call your attention to a number of CARES Act provisions under the jurisdiction of your committees that are set to expire at year's end. These bipartisan provisions anticipated a faster end to the pandemic and hence were "sunsetted" at an early date, which no longer corresponds to the status of the health crisis. In order to ensure America's banks can continue to fulfill their role as financial first responders in the communities they serve, we write to ask for the extension of a few of the most critical, temporary provisions.

Specifically, we encourage your Committees to extend the provisions below:

- **Temporary Relief from Troubled Debt Restructurings (Section 4013)**. Troubled Debt Restructurings (TDRs) are the accounting and regulatory framework for the treatment of loan modifications by a bank or credit union (such as a deferral or extension). TDR accounting is onerous, and the designation has adverse implications that will restrict the ability to work with borrowers. Currently, Section 4013 suspends the process for TDR accounting through the end of the year, and this has been essential to encourage banks to make modifications made so far. Extension of this provision is necessary to ensure that banks can respond to customer needs as the economic situation changes, to support a robust recovery, and to prevent later regulatory criticism of decisions made by financial institutions to support consumers during this unprecedented time.

This provision should be extended until the end of the emergency period.

- **Optional Temporary Relief from Current Expected Credit Losses (CECL) (Section 4014)**. The economic crisis will extend longer than the pandemic. The pro-cyclical CECL accounting standard requires financial institutions to make credit loss allowances that are difficult to estimate, adding volatility to the amount of capital they are required to hold, and creating incentives to suppress lending just as communities attempt to recover. Of the institutions required to implement CECL in January 2020, approximately 50 opted to delay pursuant to CARES Act Section 4014. They will soon be required to implement the standard in the midst of this highly uncertain time period.

  A CECL delay until at least January 1, 2023 (the effective date for those who have yet to implement CECL) will better enable financial institutions to work with their customers to address their needs as the economic and health care situations change. This will also create a unified CECL implementation date across all types of financial institutions.

  At a minimum, a technical correction to the CARES Act to set the expiration of Section 4014 from December 31, 2020 to January 1, 2021 is badly needed. The CARES Act does not explicitly state how to execute a mid-year adoption of accounting standards; FASB standards typically require adoption on January 1. Instead of providing flexibility, the SEC has stated to auditing firms that it will strictly interpret CARES Act dates, which has the effect of negating any delay. All institutions that delayed CECL this spring in accordance with the CARES Act will be required restate all of their 2020 results to CECL as of this upcoming year-end. This effectively punishes financial institutions that followed the CARES Act in good faith.

  This provision should be extended until January 1, 2023.

- **Temporary Lending Limit Waiver (Section 4011)**. This provision creates an exception from current loan limits for national banks to lend to certain nonbank financial companies. This provision promotes liquidity by creating more flexibility for national bank lending to nonbanks, ensuring all types of lenders have the tools they need to support their communities.

  This provision should be extended for at least one year, until at least December 31, 2021

- **Temporary Relief for Community Banks (Section 4012)**. A 2018 law created a voluntary minimum capital level for community banks, allowing those opting to do so to avoid the cumbersome compliance obligations required under Basel III. The law allows regulators to set the required level, based on a leverage ratio, at between 8% and 10%; regulators set the level at 9% before the pandemic. The CARES Act sets the required level at 8% until December 31, 2020. Extending this provision would maintain community bank capital levels at significant levels, while freeing up resources to be used to serve local community needs.

  This provision should be extended for at least one year, until at least December 31, 2021.

Banks of all sizes will continue to support their communities as the recovery continues, and we hope your committees can assist by providing additional tools. Although several other committees are also considering issues important to the customers and communities served by America's banks, extension of these key, temporary changes is critical to empower banks to continue to assist those in need. We strongly encourage you to extend these provisions.

We look forward to continuing to work with you to facilitate a recovery from this pandemic across our nation.

Sincerely,

James C. Ballentine

cc: Members of the Senate Banking, Housing, and Urban Affairs Committee
Members of the House Financial Services Committee