Statement for the Record

On Behalf of the

American Bankers Association

Before the

House Financial Services Committee

July 15, 2025

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The American Bankers Association (ABA) appreciates the opportunity to provide a Statement for the Record for this hearing entitled, "Dodd-Frank Turns 15: Lessons Learned and the Road Ahead." ABA is the voice of the nation's $24.5 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2.1 million people, safeguard $19.5 trillion in deposits and extend $12.8 trillion in loans.

Introduction

The Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA) (P.L. 111-203) was signed into law on July 21, 2010. This broad, complex legislation created a sweeping new financial services regime that ushered in significant regulatory and legal changes for the banking industry, impacting banks, the consumers and communities they serve, and the US economy for the last fifteen years. ABA believes a holistic review is needed to assess the costs and benefits of the Dodd-Frank Act (DFA) regulatory framework on banks of all sizes, mitigate burdens, and ensure that the laws and regulations have kept up with the fast pace of change over the 15 years since enactment.

DFA was enacted in response to the 2007-2009 global financial crisis, which highlighted gaps in the regulatory framework. ABA believes a robust legal and regulatory framework is essential to a strong banking system, financial markets, and the US economy. However, the complexity of DFA and the volume of regulations issued pursuant to that law include static regulations that often work at cross purposes, arbitrary asset thresholds, and redundant rules. Over the 15 years since the passage of DFA, there has been ongoing debate in Congress, among regulatory agencies, and in the private sector over the efficacy of the fundamental regulatory changes that resulted. This debate includes a robust discussion of the legislation's unintended consequences and the impact on the state of the U.S. banking industry and its ability to serve consumers and investors.

For example, Federal Reserve Governor Michelle Bowman, speaking at the ABA's Conference for Community Bankers in February 2025, called for a review of Dodd-Frank reforms, arguing that the regulations are outdated and overly restrictive. She emphasized the need for the Federal

Reserve to evaluate whether these changes remain relevant, as they may have pushed foundational banking activities into less regulated areas.[1]

The impact of overreach in regulation is well reflected in mortgage operations where DFA provisions forced an onslaught of continuous rule changes that spanned over 12 years and caused heavy disruptions in lending operations. This negative impact on banks was well documented in ABA surveys that included banks of all sizes and was mitigated only by extraordinary efforts and expenditures by industry participants. The overregulation has resulted in banks departing mortgage finance, to the great detriment of communities they serve. Even consumer advocacy groups have noted the detrimental results of this heavy regulation on our markets. According to the National Community Reinvestment Coalition, since 2018, institutions that lack more robust regulatory oversight have significantly expanded their dominance of the housing market. Their figures indicate that non-banks have increased their market share from 44.6% in 2018, experiencing a peak of 60.8% in 2021 before settling at 53.3% in 2024. (Mortgage Market Report Series - Part 1: Introduction to Mortgage Market Trends » NCRC)

Rising costs and regulatory burdens have also driven many banks out of mortgage servicing, shifting market dominance to nonbanks. Before passing the 2013 servicing rules, the CFPB estimated that about 90% of servicers were depository institutions (DIs). Since then, nonbank market share has surged, with FSOC reporting that their share of Agency loans serviced grew from 35% in 2014 to over 60% in 2023. These nonbanks, which face less oversight and are more prone to financial instability, now hold the majority of mortgage servicing rights (MSRs).

ABA agrees with Governor Bowman and Congressional leaders who have called for meaningful reforms to the DFA. Like any other major law developed during a time of crisis, certain elements can become overly restrictive and outdated, and it's critical for Congress to enact common-sense reforms where the DFA has resulted in harm to the banking industry or customer interests. As part of this holistic review, ABA believes Congress should provide targeted regulatory relief that bolsters the strength and dynamism of the United States banking industry and encourages banks to offer the innovative and responsible products and services desired by consumers. ABA and our member banks commend this Committee's willingness to examine the regulatory bureaucracy created by Dodd-Frank, and we urge Congress to consider a series of legislative changes to address the current economic environment and the needs of consumers and businesses throughout the country.

ABA Recommendations

Bank regulations have significant real-world consequences that stretch far beyond the regulated entities themselves to the customers, communities, and the US economy. Banking and financial services regulation affects the stability of the financial system, the cost and availability of financial products, and quality of services for consumers and businesses. Under the authority of

[1] See, https://www.federalreserve.gov/newsevents/speech/bowman20250217a.htm

the DFA and other laws and regulations over the past decade, bank regulators have proposed and finalized regulations that reduce access to affordable credit, inhibit growth in underserved communities, and undermine innovation and diversity of our banking system. We urge Congress and regulators to help mitigate the effects of such proposals by taking the following actions:

1. **CFPB Reforms**

Since its inception, the flawed leadership structure and funding mechanism of the Consumer Financial Protection Bureau (CFPB) has led to significant and counterproductive policy swings driven by electoral outcomes. These policy swings create uncertainty that discourages innovation and requires resources to be directed to regulatory compliance and away from serving customers.

To minimize these policy swings and to bring greater stability and balance to the CFPB, ABA supports the following reforms to the CFPB's structure, funding, examinations, and rulemaking process:

H.R. 3445, the Consumer Financial Protection Commission Act, led by Rep. Bill Huizenga (R-MI), which would establish a Senate-confirmed, bipartisan commission to govern the CFPB.

H.R. 654, the Taking Account of Bureaucrats' Spending (TABS) Act of 2025, led by Rep. Andy Barr (R-KY), which would place the CFPB under the annual Congressional appropriations process.

H.R. 1652, the Rectifying the UDAAP Act, led by Rep. Barr (R-KY), which would clarify the CFPB's authority to define financial practices as "abusive" and establish clearer standards for unfair, deceptive, or abusive acts or practices (UDAAP) supervision and enforcement.

H.R. 1653, the Civil Investigative Demand Reform Act of 2025, by Rep. Barr (R-KY), which would reform the CFPB's civil investigative demand (CID) process to reduce unnecessary burdens on CID recipients with better focus on information requests and reviews.

H.R. 2183, the CFPB Dual Mandate and Economic Analysis Act, by Whip Tom Emmer (R-MN), which establishes an Office of Economic Analysis within the CFPB to review all proposed and existing regulations and identify the problem the rule was intended to solve and the metrics used to measure its success. This includes measuring changes in consumer access to and the cost of financial products and services.

H.R. 1606, the Making the CFPB Accountable to Small Business Act, led Rep. Scott Fitzgerald (R-WI), which would require the CFPB to consider the impact of each rule on small entities in accordance with the Small Business Regulatory Enforcement Fairness Act.

H.R. 2331, the Transparency in CFPB Cost-Benefit Analysis Act, led by Rep. Barry Loudermilk (R-GA), which requires the CFPB to publish a cost-benefit analysis of a proposed rule in its entirety. This must include a justification of the proposed rulemaking; a quantitative and qualitative assessment of all anticipated direct and indirect costs and benefits; alternatives to the

proposed rulemaking; impacts on small businesses; and any assumptions, data, or studies used in preparing the analysis.

H.R. 2513, the CFPB-IG Reform Act of 2025, led by Rep. Dan Meuser (R-PA), which establishes a dedicated Inspector General (IG) for CFPB, removes it from the oversight of the Fed's IG, and creates specific requirements and reporting obligations for this new standalone position.

H.R.____, the Business of Insurance Regulatory Reform Act of 2025, led by Rep. Bryan Steil (R-WI), which would help prevent the potential for duplicative or conflicting regulations and reaffirm the congressional intent of the Dodd-Frank Act to defer to state insurance regulators who have the necessary expertise to protect policyholders.

2. Repeal or Reform the Small Business Lending Data Collection Rule (Section 1071)

Section 1071 of DFA directs the CFPB to adopt regulations governing the collection of small business lending data. Section 1071 amended the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and submit to the Bureau certain data on applications for credit for women-owned, minority-owned, and small businesses.

While ABA opposes lending discrimination in any form, the CFPB dramatically overstepped its statutory authority when implementing Section 1071 and adopting a final rule in 2023. In Section 1071 of DFA, Congress mandated that lenders collect and report only 13 data points from small business loan applicants. In writing the 1071 rule, however, the Bureau far exceeded Congress' statutory grant of authority by requiring lenders that originate at least 100 small business loans in each of the preceding two calendar years to collect 81 data fields on each lending application submitted by a business with gross annual revenue of $5 million or less. Section 1071 requires the CFPB to make the data public, at the loan level, on an annual basis, with appropriate deletions or modifications to protect the privacy of small business borrowers and the lenders that serve them. The CFPB's flawed Section 1071 rule would harm small businesses across the country by creating significant privacy concerns and limiting banks' ability to tailor loans, which will reduce access and increase the cost of credit for small businesses.

The repeal of Section 1071 would preserve the availability of credit for small businesses across the country while protecting the privacy of small business loan applicants. ABA applauds and supports the Committee's successful markup of H.R. 976, the 1071 Repeal to Protect Small Business Lending Act, led by Chairman Roger Williams (R-TX), during the April 2, 2025 legislative markup.

ABA also supports legislation that would provide targeted relief for the banking industry and help address privacy concerns with the CFPB's Section 1071 rule, including the following bills:

H.R. _____ the Small Lenders Exempt from New Data and Excessive Reporting (LENDER) Act, led by Chairman French Hill (R-AR), would exempt from Section 1071 compliance lenders that originated less than 2,500 small business loans in each of the two preceding calendar years as

well as lenders with less than $10 billion in assets (rather than those originating at least 100 small business loans the two preceding calendar years). In addition, the legislation would only cover loans to businesses with gross annual revenues of $1 million or less, rather than businesses with revenues of $5 million or less. The legislation would also set an initial compliance date of June 1, 2031 with a 2-year safe harbor following that date.

H.R. 2885, the Bank Loan Privacy Act by Rep. John Rose (R-TN), would require the CFPB to engage in rulemaking with public comment before modifying or making public any of the 1071 data. This rulemaking requirement is a critical step toward advancing the privacy interests of small businesses loan applicants.

3. Repeal the Durbin Amendment

The Durbin Amendment (S. Amdt. 3989 to S. 3217), enacted in 2010 as part of the Dodd-Frank Act, imposes caps and routing mandates on interchange fees associated with debit card transactions. Unfortunately, the negative impacts of this misguided law are clear—the Durbin Amendment has adversely impacted consumers, harmed community banks, and resulted in a wealth transfer from American customers to large corporate megastores.

The evidence clearly shows that price controls on debt card interchange fees—the fees merchants pay when customers use debt cards—mandated by the Durbin Amendment have resulted in fewer free checking accounts, increases in fees on fee-based checking accounts, and the elimination of popular debit card rewards.

Meanwhile, contrary to merchant promises to Congress that average Americans would benefit from the Durbin Amendment, study after study has found that the Durbin Amendment has failed to lower retail prices as merchants promised. According to a merchant survey conducted by the Federal Reserve Bank of Richmond and Javelin Strategy & Research in 2014, 75% of merchants reported that they did not change prices due to the Federal Reserve's Regulation II, 23% reported that they increased prices, and 2% reported that they decreased prices.

The Durbin Amendment provides that the "Board shall prescribe regulations…to establish standards for assessing whether the amount of any interchange transaction fee is reasonable and proportional to the cost incurred by the issuer with respect to the transaction." The Board's statutory mandate to "establish standards" does not require the Board to set a price cap, despite its decision to do so.

Congress mandated that interchange fees be "reasonable and proportional" to costs incurred by the issuer with respect to particular debit card transactions. Instead, Reg II sets the price cap so low that even the Board acknowledges that a significant percentage of covered issuers (approximately 23 percent) do not fully recover even the limited universe of costs currently included in the calculation of the price cap. As such, the Durbin Amendment as implemented by Reg II raises doubts about its constitutionality as courts have repeatedly held that price-control regulations that fail to allow a reasonable rate of return are unconstitutional.

Meanwhile, although the proposed rule would only apply to institutions with more than $10 billion in assets, even the smallest community bank issuers exempt from the rule have felt downward market pressure as they exist in the same payment rail system as large issuers. Between 2011 and 2021, exempt institution debit card interchange revenue fell 16% for single-message network transactions. Further, as time goes on, an increasing number of smaller banks will be subject to its rules because its thresholds were not indexed for inflation. Repealing this law will prevent these problems from continuing to mount and will restore a fully functioning market for checking accounts. The basic economic principle still holds that price ceilings become price floors.

4. Maintain Regulatory Tailoring, Right-Size and Index Regulatory Thresholds

The banking industry is a strong proponent of regulatory tailoring and was supportive of bipartisan banking legislation (S. 2155) in 2018 and its related rulemakings that promulgated this law at the regulatory agencies. However, like many rules, the S. 2155 rulemakings used static asset thresholds as a metric. Fixed dollar thresholds become outdated over time, particularly in higher inflationary environments, leading to the application of regulatory requirements that do not accurately represent an institution's complexity or risk profile. Static thresholds also carry consequences for regulators. An expanding pool of covered banks beyond the intended scope dilutes regulatory efforts and the ability of agencies to focus on the largest sources of risk. These outcomes run counter to policy objectives.

Indexing plays a crucial role in maintaining regulatory relevance, reducing unintended constraints on market participants and the public, and ensuring that rules remain appropriately calibrated as the economy grows. While regulators have recognized the importance of revisiting asset triggers (such as for the 18-month exam cycle; see Figure 1), very few supervisory asset thresholds are regularly adjusted for growth. The practical consequence of this failure to index is a steady expansion of regulatory reach — not through legislative or regulatory deliberation, but by default.

18-month exam cycle: Asset threshold adjustments

Effective date	Asset threshold
8/28/1998	$250 million
9/25/2007	$500 million
1/17/2017	$1 billion
1/17/2019	$3 billion

Source: ABA analysis

Regulatory agencies must tailor their actions based on the capital structure, risk profile, complexity, financial activities, business model, and size of the institution. That is why ABA supports a comprehensive review of their compliance with the statutory mandate for regulatory tailoring under S. 2155, as well as remedies for any noncompliance.

As part of this comprehensive review, Congress should identify where statutory changes are required to implement indexing and direct the federal banking agencies to index the supervisory asset thresholds under their authority to economic growth or the aggregate size of the banking sector. This approach would maintain consistency and fairness and avoid "regulatory creep,"

ensuring that regulatory categories remain appropriately tailored as institutions grow alongside the broader economy.

There is growing consensus that indexing plays a critical role in regulatory tailoring. Michelle Bowman, Vice Chair of Supervision at the Federal Reserve Board, and Travis Hill, acting Chairman of the Federal Deposit Insurance Corporation, recently expressed broad support for modernizing and indexing supervisory thresholds. The Conference of State Bank Supervisors similarly emphasized the need to revisit static asset thresholds.

Although not related to indexing, the ABA supports the following bills that advance tailored rulemaking and were favorably reported by the Committee during the May 21, 2025 legislative markup:

H.R. 3230, the Financial Institution Regulatory Tailoring Enhancement Act, led by Rep. Barr (R-KY), raises the asset threshold from $10 billion to $50 billion for purposes of certain regulations, including CFPB supervision, the Volcker Rule, qualified mortgage standards, and certain leverage and risk-based capital requirements.

H.R. 3380, the Taking Account of Institutions with Low Operation Risk (TAILOR Act), led by Rep. Loudermilk (R-GA), requires the OCC, FDIC, Fed, NCUA and CFPB to consider an institution's risk profile and business model when issuing new regulations or taking supervisory actions.

Conclusion

The Dodd-Frank Act became law in 2010 and as Governor Bowman and others have noted, many of the sweeping changes to financial regulation it implemented fifteen years ago are outdated and overly restrictive. ABA recommends that the Committee focus on reforming the CFPB; repealing or reforming Section 1071; repealing the Durbin Amendment; and directing the regulatory agencies to more effectively tailor regulation (including indexing any thresholds) to the risk-profile of the financial institution rather than imposing arbitrary thresholds and other unnecessary regulatory impediments

It is time for Congress to review and adjust the law to better reflect the current economic and financial environment, and ABA and our member banks look forward to working with you and your colleagues in Congress to achieve this goal. Further, we will continue to evaluate the legislation noticed for this Committee hearing.

Thank you once again for allowing us to provide our views on reforming the Dodd-Frank Act.