American Bankers Association
Building Success. Together.

Rob Nichols
President & CEO
[redacted]

December 19, 2023

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President:

On behalf of the two million women and men working in communities across the country as part of the U.S. banking system, I write to share ABA's growing concern about the cumulative impact of uncoordinated regulatory initiatives that have the potential to significantly disrupt retail and commercial banking in ways that will negatively impact the economy and the customers banks serve. Some of those effects will be felt in the near-term as credit or even basic banking services are repriced in response to new rules, and others will be felt over time through bank consolidation, accelerated by this extraordinary confluence of new and existing regulations. Neither outcome is consistent with your Administration's objectives, and only by acting now to assess the full impact of these complex regulatory interactions can we ensure that economic growth and access to credit will not be compromised.

The list of major regulatory changes is daunting and includes new capital regulations, proposed at a time when regulators acknowledge that banks are already well-capitalized, will raise the costs of mortgages, small business credit, energy infrastructure, retirement plans, and even basic risk management through hedging. A 1,500-page rewrite of the Community Reinvestment Act (CRA) regulations, while well-intentioned, will force even community banks to throw out a 50-year CRA playbook and start over, pushing even more mortgage lending outside the well-regulated banking sector to fintech companies and credit unions that do not face the same oversight. Payments rules, one finalized on transaction routing and another proposed to tighten business-to-business price caps, will undermine payment security and make checking accounts more expensive for those who need them most. Small business lending data reporting regulations will impose daunting paperwork obligations on banks, require intrusive data collection from bank customers, and erode the relationship banking model that has served America's entrepreneurs for generations. Planned changes to the Federal Home Loan Bank (FHLBs) could add to the mounting disincentives for bank mortgage lending and reduce liquidity options for banks in times of stress. And a proposal to rewrite the rules for bank custody businesses will begin to push yet another exceedingly safe core banking function outside the regulated banking perimeter and make it more difficult for consumers to safeguard their financial assets.

Implementation of each of these regulations on their own creates significant challenges for banks that impact their customers. Together, these new regulations and a persistent high interest rate environment mean banks of all sizes, including the smallest community banks, will face higher costs for deposits, higher costs to offer basic banking services like free checking accounts, higher costs to make loans (even relative to non-banks), and higher costs to run basic payment programs and invest in critical cybersecurity and other fraud mitigation systems. Collectively, these increased costs to banks translate into increased costs for customers – or scarcity, and no single regulator, much less the group as a whole, is measuring how these costs will add up and flow through the economy.

I urge you to direct the Secretary of the Treasury in her capacity as the Chair of the Financial Stability Oversight Council (FSOC) to complete a comprehensive inter-agency economic impact analysis of the various rule changes that are taking place in siloes across your Administration before any new regulations can take effect. The FSOC's independent analysis can then inform a more thoughtful and coordinated rulemaking process.

And while we encourage your Administration to focus on customer and economic outcomes, the regulatory impact on the long-term competitiveness of the community banking model is equally worthy of the Administration's attention and concern. Treasury and the banking regulators have long recognized that the U.S. banking system is the envy of the world because of its breadth and depth of size, charter, and business model. At ABA's Washington Summit last March, Secretary Yellen emphasized that "our dynamic and diverse banking system is critical to the American economy."

Large globally active banks, regional banks, midsize banks, and thousands of community banks make up a complex financial services ecosystem that serves an economy built on the American dream of free enterprise. From the entrepreneur in her garage, the small business owner opening another location, the mid-market manufacturer looking to expand regionally, to the established multinational seeking new markets, 4,700 U.S. banks stand ready to meet these needs and more. But increasing regulation is helping to accelerate consolidation in banking; the nation has lost nearly 342 banks since you assumed the presidency. We recognize that a strong banking sector needs a clear set of rules, but compliance can be expensive. As a result, banks are understandably seeking scale to overcome the economic costs imposed by Washington no matter how well intended. This reality makes it all the more important to make sure any new rules will do more good than harm.

If preserving the dynamic, diverse U.S. banking system remains a priority for the nation and access to affordable banking services for every American a table-stakes imperative, I encourage you to ask tough questions about the regulatory tsunami now forming and whether it is consistent with your goals to increase economic growth and expand opportunities for all Americans. Our concerns are shared by third parties, including some who don't always agree with us, and supported by experience and data – some supplied by the very regulators who are implementing these regulations.

Given the gravity of these issues, the complexity of these interconnected policies and the stakes for the U.S. economy, I would respectfully request to have the ABA Board of Directors meet with you and your economic team to discuss our shared goal of developing a policy framework that achieves a vibrant and inclusive economy, supported by banks of every size and business model. We look forward to a thoughtful and constructive conversation. Thank you for considering our request and for letting us share our perspective.

Sincerely,

Bob Nichols

cc: FSOC Agency Heads, Federal Reserve System Board members, FDIC Board members, NCUA Board members, CFTC Commissioners, and SEC Commissioners

U.S. Department of Treasury
- The Honorable Janet Yellen, Secretary

Board of Governors of the Federal Reserve System (FRB)
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- The Honorable Michael S. Barr, Vice Chair
- The Honorable Michelle W. Bowman
- The Honorable Lisa D. Cook
- The Honorable Dr. Adriana D. Kugler
- The Honorable Philip N. Jefferson
- The Honorable Christopher J. Waller

Federal Deposit Insurance Corporation (FDIC)
- The Honorable Martin J. Gruenberg, Chair
- The Honorable Travis Hill, Vice Chair
- The Honorable Jonathan McKernan, Director

Office of the Comptroller of the Currency (OCC)
- The Honorable Michael Hsu, Acting Comptroller

Consumer Financial Protection Bureau (CFPB)
- The Honorable Rohit Chopra, Director

National Credit Union Administration (NCUA) Board
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- The Honorable Kyle S. Hauptman, Vice Chair
- The Honorable Rodney E. Hood, Board Member

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- The Honorable Caroline A. Crenshaw
- The Honorable Jaime Lizárraga
- The Honorable Hester M. Peirce
- The Honorable Mark T. Uyeda

Commodity Futures Trading Commission (CFTC)The Honorable Rostin Behnam, Chair
- The Honorable Kristin N. Johnson
- The Honorable Summer K. Mersinger
- The Honorable Caroline D. Pham
- The Honorable Christy Goldsmith Romero

Federal Housing Finance Agency (FHFA)
- The Honorable Sandra L. Thompson, Director