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February 13, 2018

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Proposed Guidance on Supervisory Expectation for Boards of Directors, Docket No. OP-1570

Dear Ms. Misback:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to comment on the Federal Reserve's proposal addressing supervisory expectations for the boards of directors of bank holding companies, savings and loan holding companies, state member banks, U.S. branches and agencies of foreign banking organizations, and systemically important nonbank financial companies. Our comments are limited to the second and third parts of the proposal that deal with the supervisory expectations of boards of directors of institutions of all sizes.

ICBA's Comments

ICBA commends the Federal Reserve for conducting a comprehensive review of all existing supervisory expectations and regulatory requirements relating to boards of directors of bank and savings and loan holding companies of all sizes. The Federal Reserve is conducting this review in two phases. The first phase is focused on reviewing the supervisory expectations of boards set forth in existing SR letters that communicate Board guidance. As a result of this first phase, the Board identified 27 SR letters for

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[1] *The Independent Community Bankers of America®, the nation's voice for nearly 5,700 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services. With nearly 52,000 locations nationwide, community banks employ 760,000 Americans, hold $4.9 trillion in assets, $3.9 trillion in deposits, and $3.3 trillion in loans to consumers, small businesses, and the agricultural community. For more information, visit ICBA's website at www.icba.org.*

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potential elimination or revision, which collectively included more than 170 supervisory expectations for holding company boards. For SR letters that have other supervisory expectations unrelated to boards of directors that still remain relevant, only the specific portions of the guidance relating to the boards of directors would be revised.

While we commend the Federal Reserve for finding 27 SR letters that can be eliminated, ICBA believes this review should have been conducted as part of the EGRPRA process and should have included the other two banking agencies. We believe that if all the agencies conducted a comprehensive review all of their guidance—not just the guidance that pertain to boards of directors—they would find that much of their guidance is redundant and in many cases, outdated. Streamlining banking guidance should have been one of the chief goals of the EGRPRA review.

In any case, ICBA fully endorses the Federal Reserve's initiative and looks forward to reviewing the results of the second phase where the focus will be on supervisory expectations set forth in Board regulations. This second phase will require consultation and collaboration with the two other banking agencies and the Federal Reserve expects that any proposed changes would be subject to notice and comment.

ICBA believes that a more flexible, principles-based approach to board responsibilities will encourage community bank board members to spend less time on routine matters and more on core board responsibilities. We believe that the Federal Reserve's initiative is a welcome departure from the trend of post-Dodd-Frank regulation which has focused on increasing the supervisory expectations of board members and conflating the roles of senior management and directors. This trend has made it harder for community banks to attract and retain competent directors. These proposed revisions to the Federal Reserve's guidance will better distinguish the board's roles and responsibilities from those of senior management and will eliminate the uncertainty that is many cases lead boards to unnecessarily address matters that are better suited for senior management.

For smaller firms, the Federal Reserve will be aligning all of its guidance on supervisory expectations with what is set forth in SR letter 16-11, "Supervisory Guidance for Assessing Risk Management at Supervised Institutions with Total Consolidated Assets Less than $50 Billion." **We commend the Federal Reserve for including its principal guidance to board members of small institutions in one letter and aligning all the rest of its guidance with that letter.** SR 16-11 outlines the key Federal Reserve's supervisory expectations for the roles and responsibilities of the board of directors, such as approving the institution's overall business strategies and significant policies; understanding the risks the institution faces and having access to information to identify the size and significance of the risks; providing guidance regarding the level of

acceptable risk exposures to the institution; and overseeing senior management's implementation of the board-approved business strategies and risk limits.

We also commend the Board for proposing clarifying expectations regarding the communication of supervisory findings. SR letter 13-13 currently establishes an expectation that all supervisory findings, including Matters Requiring Immediate Attention (MRIAs) and Matters Requiring Attention (MRAs), should be presented to the board of directors so that the board may ensure that senior management devotes appropriate attention to addressing these matters**. In some cases, boards of community banks as well as some examiners have interpreted this guidance to mean that board members must become directly involved in addressing an MRIA or MRA.**

The proposed guidance would clarify these issues so that board members would not feel compelled to address every MRA or MRIA. The proposed guidance would indicate that Federal Reserve examiners and supervisory staff would direct most MRIAs and MRAs to senior management for corrective action. MRIAs or MRAs would only be directed to the board for corrective action when the board needs to address its corporate governance responsibilities or when senior management fails to take appropriate remedial action. Of course, boards of directors would remain responsible for holding senior management accountable for remediating supervisory findings.

ICBA fully endorses the conclusions of the Treasury Department in its latest report on the financial system. With regard to boards of directors, that report entitled "A Financial System that Creates Economic Opportunities: Banks and Credit Unions" said that:

Through Treasury's discussion with a wide range of stakeholders, including chief executive officers, trade group representatives, Board members, and governance experts, several themes emerged. First, there are over 800 provisions in law, regulation, and agency guidance that impose obligations on bank Boards. This volume crowds out time that should be allocated to oversight of the enterprise's business risk and strategy. Second, there is a considerable volume of non-strategic regulatory matters requiring Board attention that has the impact of blurring the appropriate line between management and Board duties. Finally, there is little coherence in the panoply of requirements imposed on Boards by various financial regulators, on top of federal and state statutory requirements. This has resulted in significant overlap, a lack of thoughtful coordination of aggregate requirements and expectations, and a lack of periodic review or reassessment of the impact of aggregate requirements placed on Boards. This has a particularly negative impact on mid-size and smaller banking organizations.

Treasury recommended an inter-agency review of the collective requirements imposed on boards in order to reassess and better tailor these aggregate expectations and restore balance in the relationship between regulators, boards, and bank management.

Conclusion

Community bank directors have been concerned with the attempts by regulators to make directors responsible for the day-to-day management of their financial institutions. Such regulatory initiatives have increased the breadth and depth of materials and issues for which directors are asked to be responsible, thereby increasing their potential liability if the institution were to run into trouble or fail. As a result, it has been harder for community banks to find talented people to serve on their boards. Furthermore, community bank boards have had difficulty delineating their responsibilities from that of management.

ICBA therefore commends the Federal Reserve for taking the first step towards reversing this trend and as Treasury says, restoring the balance in the relationship between regulators, boards, and bank management. However, we believe this should be an inter-agency initiative and strongly recommend that the Federal Reserve work with the other two banking agencies to streamline their guidance and their regulations concerning boards of directors. Both the FDIC and the OCC should also endorse the Federal Reserve's guidance concerning the communication of supervisory findings.

ICBA appreciates the opportunity to comment on the Federal Reserve's proposal addressing supervisory expectations for boards of directors . If you have any questions or would like additional information, please do not hesitate to contact me by email at Chris.Cole@icba.org.

Sincerely,
/c/Christopher Cole

Christopher Cole
Executive Vice President and Senior Regulatory Counsel

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