ICBA
INDEPENDENT COMMUNITY BANKERS of AMERICA®

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IRS Nonresident Alien Deposit Reporting Proposal Must be Withdrawn

On behalf of its nearly 5,000 community bank members, ICBA is pleased to submit this statement for the record on "Proposed Regulations to Require Reporting of Nonresident Alien Deposit Interest Income." The Internal Revenue Service's January 2011 proposed rule is a threat to savings, investment, and the economic recovery, and ICBA has formally urged the IRS to withdraw it. We are pleased that the House Financial Services Subcommittee on Financial Institutions and Consumer Credit is holding a hearing to examine this issue, and we urge all members to help stop this counterproductive IRS proposal from becoming final.

Given the fragile state of our nation's economy, ICBA is frankly alarmed that the Treasury is advancing a proposal that would jeopardize deposits at U.S. banks held by nonresident aliens, a vital source of credit to support economic growth, especially in the states where these deposits are concentrated, including Florida, California, New York, and Texas. These deposits, which are largely a function of the confidentiality, privacy, and stability of the U.S. banking system, are at risk of being abruptly withdrawn and future deposits deterred. Individuals have a choice among solvent, stable banking systems in which to keep deposits, which are easily transferred from one country to another. Any adverse change in terms may be enough to make them revisit their choices, or at a minimum, demand higher rates. Let's not make the mistake, especially now, of assuming that nonresident alien depositors are not sensitive to the confidentiality of their banking relationships.

Treasury reached the correct decision in 2002 when they withdrew a similar proposal, following broad concerns raised by the financial community and significant objections raised by members of Congress. The case against the current proposal has only become more compelling since then. Economic conditions are more challenging and the need for banks to support lending is more urgent.

Treasury has defended its proposal by noting that it only affects depositors who are resident in jurisdictions with which the U.S. has an income tax treaty or a tax information exchange agreement (TIEA), and that such agreements generally allow for the exchange of tax information only for the purposes of administering and enforcing tax laws and only if the information is kept confidential and not subject to misuse. However, the list of countries with which the U.S. has such agreements includes a number of decidedly non-democratic regimes with poor records of protecting human rights. Such regimes cannot be relied upon to observe confidentiality agreements or limit their use of data to tax purposes. Depositors who reside in these regimes may have legitimate reasons for the confidentiality they have come to expect from the U.S. bank system. Disclosure of their foreign financial holdings could put them and their families at risk of political persecution or even make them targets of criminals who have obtained their data.

We appreciate that the Treasury proposal is motivated by an effort to foster international cooperation, but, as Treasury has noted, bank deposit interest data is already available on an as-

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requested basis under existing information exchange relationships. The successful prosecution of a number of highly sophisticated, foreign tax evasion cases using U.S.-provided data demonstrates that the current information exchange relationships are more than sufficient for tax enforcement. This proposal, providing for *automatic* exchange of deposit interest data, goes further than needed for the purposes of international cooperation. Treasury has also suggested that the proposal will help to detect U.S. taxpayers who pose as nonresident aliens to evade taxation. However, there is already ample authority to pursue any suspected tax evasion. U.S. banks are already required to know the identity of their customers under the Bank Secrecy Act, the USA PATRIOT Act, and other laws. This onerous new Treasury proposal is not needed to prevent this form of tax evasion.

Finally, the additional compliance represented by the proposal would be an expense, a burden, and a distraction to community bankers from the critical business of lending and advancing the economic recovery. This expense is disproportionately large for community banks which have a smaller revenue base over which to spread compliance costs. The proposal is contrary to the President's January Executive Order directing all agencies to modernize regulations and remove those that present a burden unjustified by any benefit.

Community bankers urge Congress's help in forestalling this economically damaging proposal. ICBA is grateful to Representative Bill Posey (R-FL) for introducing H.R. 2568, which would prevent the Secretary of the Treasury from finalizing this proposed rule. We encourage members of this Subcommittee to cosponsor Rep. Posey's bill.

Thank you again for convening this hearing and for the opportunity to share the community banker perspective on this important issue.

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