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For Immediate Release
July 29, 2020

Banking and Consumer Groups Call on Congress to Close ILC Loophole

Washington, D.C. — The Bank Policy Institute (BPI), Center for Responsible Lending (CRL) and Independent Community Bankers of America (ICBA) today urged Congress to impose a three-year moratorium on industrial loan company licensing applications. The moratorium on Federal Deposit Insurance Corporation approvals would provide Congress time to close the ILC loophole and ensure ILCs and their parent companies don't pose unnecessary risks to consumers and taxpayers.

"ILCs offer banking products and services that are functionally indistinguishable from those offered by banks, but the ILC loophole allows the parent companies of ILCs to avoid oversight by the Federal Reserve Board and to engage in commercial activities, thus introducing risk to the banking system and to taxpayers," the groups wrote. "Legislative action to close this loophole is necessary to eliminate these risks."

ILCs are FDIC-insured, state-chartered institutions that can generally engage in the full range of banking activities, such as taking deposits and making loans. But unlike banks, their parent companies are not subject to the Bank Holding Company Act, which means those companies are not subject to any federal supervision, regulations or standards. For this reason, there has historically been considerable opposition to the charter, and both Congress and the FDIC have placed temporary moratoria on ILCs.

Big Tech company ownership of an ILC introduces a new concern: that consumer data, including sensitive personal financial information, will be inadequately safeguarded and used in inappropriate and unauthorized ways. With global e-commerce giant Rakuten recently joining tech firms such as Square and Nelnet in applying to form ILCs, the risk associated with this legal loophole is greater than ever.

“In the era of dominant Big Tech, we should be cautious before giving technology companies even greater reach into the economic life of Americans by allowing them to own banks," the groups wrote. "The integration of technology and banking firms would not only result in an enormous concentration of financial and technological assets but also would pose conflicts of interest and privacy concerns to our banking system.”

The groups further noted, “A growth in ILCs poses broader consumer protection risks as well, because non-bank lenders, including very high-cost lenders, view the ILC charter as a far easier way to obtain banking privileges than obtaining a traditional bank charter and, consequently, becoming subject to consolidated Federal Reserve supervision.”

In March, the FDIC issued a notice of proposed rulemaking related to parent companies of industrial banks and industrial loan companies. BPI, CRL, ICBA and a coalition of civil rights groups wrote to the FDIC requesting that the FDIC not approve ILC deposit insurance applications until its ILC rulemaking is final. However, in recent months, the FDIC has approved some ILC applications and is reviewing others, including some whose parent companies engage in commercial activities.

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About Bank Policy Institute.
The Bank Policy Institute (BPI) is a nonpartisan public policy, research and advocacy group, representing the nation’s leading banks and their customers. Our members include universal banks, regional banks and the major foreign banks doing business in the United States. Collectively, they employ almost 2 million Americans, make nearly half of the nation’s small business loans, and are an engine for financial innovation and economic growth.

About The Center for Responsible Lending.
The Center for Responsible Lending (CRL) is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices.

About ICBA.
The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ nearly 750,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than $5 trillion in assets, nearly $4 trillion in deposits, and more than $3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers’ dreams in communities throughout America. For more information, visit ICBA’s website at www.icba.org.