Financial Institutions and Environmental, Social and Governance Issues (ESG)

Issue Update

Driven by attention from regulators, investors, customers and employees, there is increasing debate around Environmental, Social and Governance ("ESG" or often referred to as "sustainability") in Washington, DC and in Statehouses throughout the country. Bank-driven ESG programs can be an important part of how a bank meets the needs of its employees and the communities it serves. However, in recent years, policymakers have considered, and in some cases enacted, policies that would in effect impose ESG-related requirements on banks under the guise of safety and soundness. In other cases, policymakers have tried to effectively prohibit banks from considering ESG factors.

Why It Matters

As policymakers focus on ESG issues, the potential arises for inappropriate governmental intervention into banks' business decisions and board governance. While not the only example, the most prevalent and pressing have been efforts to force financial institutions to bank or not bank a lawful company or industry.

It is appropriate for prudential banking regulators to consider how banks identify, monitor and manage financial risk. However, it is also inappropriate to use bank supervision or regulation to regulate other industries indirectly – especially to discourage lending and investment or to compel it.

Preserving the ability of each bank to make its own decisions regarding ESG initiatives and priorities based on business and market considerations will preserve the ability of all banks to meet the unique needs of the communities they serve.

Recommended Action Items

- Oppose policymaker efforts to use banks, through safety and soundness measures, to effectively regulate or reallocate capital to or from other industries.

    - Regulation perceived to be taken on one side of the political spectrum will likely be countered by an opposite reaction by others. It is bad for customers for banks to be put in the middle of this debate.

    - Competition is at the foundation of a functioning free market. Prohibiting financial institutions from exercising discretion in their evaluation of risk in customer relationships is not only unnecessary in a competitive marketplace, it, in essence creates a new protected class of industry. This would set a dangerous precedent and crack open a "Pandora's Box" of government intervention into private business decisions.

    - Banks should be free to lend to, invest in, and generally do business with any entity or activity that is legal, without government interference. Likewise, banks should not be compelled to do business with an entity, except in the case of fair lending or anti-discrimination requirements. Allowing banks to make their own business decisions has helped foster the deepest and most resilient banking system in the world, and we should not undermine that.