S. HRG. 114–3

REGULATORY RELIEF FOR COMMUNITY BANKS AND CREDIT UNIONS

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING THE REGULATORY BURDEN ON COMMUNITY BANKS AND CREDIT UNIONS, INCLUDING RECOMMENDATIONS TO ALLEVIATE THE REGULATORY BURDEN

FEBRUARY 10, 2015

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

Available at: http://www.fdsys.gov/

U.S. GOVERNMENT PUBLISHING OFFICE

93–830 PDF WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

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C O N T E N T S

TUESDAY, FEBRUARY 10, 2015

WITNESSES

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

REGULATORY RELIEF FOR COMMUNITY BANKS AND CREDIT UNIONS

TUESDAY, FEBRUARY 10, 2015

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Richard C. Shelby, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. The hearing will come to order.

This week, the Committee on Banking begins an examination of potential changes to the current regulatory structure. Today we will focus on regulatory relief for smaller financial institutions. In the near future, we will continue this examination by focusing on unnecessary statutory and regulatory impediments across the financial services spectrum.

While there are some who continue to argue that current law is beyond reproach, there are many on both sides of the aisle that believe improvements can and should be made. Today we will hear from regulators on some of the lessons they have learned and how best to overcome some of the challenges that they have encountered. And although we may not agree on many things, I believe that we can all agree that community banks and credit unions play a vital role in our local economies.

Six hundred and twenty-nine counties in the United States are served only by one single community bank. Six million U.S. residents depend on small financial institutions for their daily banking needs. These financial institutions use their knowledge of local communities to lend to small businesses, which are the engine of job creation in America.

A recent survey found that community banks provide 48 percent of small business loans issued by U.S. banks—48 percent. That number is even higher in rural areas where small financial institutions account for 52 percent—yes, 52 percent—of small business and farm loans. These financial institutions are able to forge relationships with local consumers that enable them to develop products tailored to the specific needs of their communities.

Unfortunately, we have heard that innovation tailored for Main Street is being smothered by unnecessary regulations originally designed for Wall Street. Some of the regulators before us today have testified in the past that small financial institutions did not—yes, did not—cause the financial crisis. Nevertheless, added regulations have caused hundreds of banks and credit unions to simply stop offering certain products. They are instead forced to spend valuable resources on compliance staff.

A survey by the Federal Reserve and the Conference of State Bank Supervisors found that compliance costs have increased for 94 percent of community banks. I believe it is time to reverse this trend. Today we expect to hear recommendations from regulators on ways to provide regulatory relief for smaller financial institutions. Past Committee hearings on this issue have demonstrated bipartisan understanding that something must be done here. Discussion here will build upon these efforts by providing specific recommendations for both regulators and Congress to implement.

I believe that we are long overdue for regulatory relief for small financial institutions, and I look forward to the hearing today.

I will now recognize Senator Brown, our Ranking Member.

STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman, very much. I appreciate that you have invited both Federal and State regulators to continue the conversation that we had last fall about regulatory relief for small banks and for credit unions.

This hearing is timely as Federal agencies have made important changes recently that benefit the smallest depository institutions, and I thank you for those changes.

To highlight a few, in January, the NCUA reproposed its risk-based capital rule to be responsive to concerns, legitimate concerns, raised by small credit unions. A few weeks ago, CFPB announced changes to its mortgage rule, a win for small lenders, particularly those in underserved rural areas. The Fed proposed to eliminate quarterly consolidated financial reporting requirements for certain bank holding companies and savings and loan holding companies under $1 billion.

Since our last hearing last fall, Congress has also acted. We passed and the President signed into law several regulatory relief bills that were discussed at the September hearing and supported by those who will be before this

Committee on Thursday. These bills included a bill introduced by Senators King, Warner, and Tester that doubled the threshold for the Small Bank Holding Company Policy Statement; a bill supported by Senators King, Jack Reed on this Committee, and Senator Warner to allow insurance for credit unions members' IOLTA accounts; and a bipartisan bill authored by Senator Moran and me to permit financial institutions to offer prize-linked savings accounts. All of those are now law.

Also as a result of congressional action, led by Senator Vitter, a Member of this Committee, the President has nominated a community banker to serve on the Federal Reserve Board. There are also regulatory relief proposals that I supported that did not cross the finish line last year. I am pleased that Senator Moran, and joined now by Senator Heitkamp, will reintroduce the Privacy Notice Modernization Act. That bill last year had 75 Senate sponsors. Mr. Chairman, this bill is ready for action, and we should move on it as soon as we can.

There is no question that regulators and Congress have been responsive to the concerns of small institutions. We have acted where legitimate problems have been identified, and members and stakeholders have come together to find compromise.

I thank the witnesses today for helping in that process. I do not believe, though, that every bill intended to provide regulatory relief to small institutions is a good idea. Some proposals could threaten the safety and soundness of individual institutions; others could remove important consumer protections that all customers deserve, no matter the size of the lending institution, the bank. We must not forget that more than 400 banks with less than $1 billion in assets failed as a result of the crisis. The cost to the Deposit Insurance Fund exceeded $26 billion.

Lending, of course, is an inherently risky business. We must make sure we do not encourage unsafe practices in our efforts to tailor regulations to small lenders. We need to establish a process to evaluate the merits of the proposals being suggested today and those we will hear about on Thursday.

We will not be successful this Congress in providing regulatory relief if our proposals do not have broad bipartisan agreement and are attached to unrelated must-pass legislation. Our prospects are even less likely if we try to pair regulatory relief with attempts to roll back Wall Street reform.

I am open to solving real problems affecting community institutions, as evidenced by our actions over the last couple of years. We can find common ground if our goal is to provide meaningful relief to the Nation's smallest institutions while not compromising safety and soundness or consumer protections.

Today's witnesses can help us evaluate programs. They have done significant research to better understand the characteristics of community banks and small credit unions. They also understand, our panelists also understand why and how small institutions fail. This can help us target regulatory relief to the smallest institutions.

For example, in Ohio, 80 percent of the community banks in my State are under $500 million in total assets. These are the types of institutions that feel the impact of burdensome regulations the most, whether it is providing another report to their regulatory or needing to hire another employee for compliance.

Last, Mr. Chairman, I look forward to hearing more about the EGRPRA review currently underway. The Fed, the OCC, and the FDIC are required by law to review regulations and identify those which are duplicative, outdated, or unnecessary. The NCUA, State regulatory agencies, and the CFPB participate in this exercise voluntarily, in addition to the three that are required. This review supplements a significant analysis of impacts that the agencies also do while writing a rule.

I appreciate that you have already held meetings in Los Angeles and Dallas and plan to hold meetings in Boston, Chicago, Washington, and rural areas later in the year. I would encourage you to consider a meeting in Ohio as well. This review will be completed next year. Any actions we take in Congress should complement, not complicate, the process currently underway by the agencies.

Mr. Chairman, I thank you.

Chairman SHELBY. All Members' opening statements will be made part of the record. I understand that Senator Tester has another Committee hearing. He wanted to say——

STATEMENT OF SENATOR JON TESTER

Senator TESTER. I do, and I want to thank the Chairman and Ranking Member for their statements and for holding this hearing. In a rural State like Montana, community banks and credit unions are the lifeblood for capital for businesses and personal families. And I would just like to say this is a State where personal relationships still matter, and Wall Street did behave—some on Wall Street behaved badly a few years back. And I think community banks and credit unions have felt the pain of their behavior when they did nothing wrong.

I would just ask that this Committee and the regulators match the risks with the regulation. That is really where it needs to be. And I think that if we do that, we will have succeeded in making capital accessible for folks that live in rural America and across this country.

Chairman SHELBY. Thank you.

Our witnesses today are Doreen Eberley, the Director of the Division of Risk Management Supervision for the Federal Deposit Insurance Corporation.

Maryann Hunter is the Deputy Director of the Division of Banking Supervision and Regulation for the Board of Governors of the Federal Reserve System.

Mr. Toney Bland is the Senior Deputy Comptroller for Midsize and Community Bank Supervision for the Office of the Comptroller of the Currency.

Larry Fazio is the Director of the Office of Examination and Insurance at the National Credit Union Administration.

And Candace Franks is the Commissioner of the Arkansas State Bank Department. She also serves as chairman of the Conference of State Bank Supervisors.

I would like to ask all the witnesses—all the witnesses' written testimony will be made part of the hearing record, and if you could sum up your oral testimony in about 5 minutes, it will give us a chance to have a dialog with you.

We will start with Ms. Eberley.

STATEMENT OF DOREEN R. EBERLEY, DIRECTOR OF THE DIVISION OF RISK MANAGEMENT SUPERVISION, FEDERAL DEPOSIT INSURANCE CORPORATION

Ms. EBERLEY. Thank you. Chairman Shelby, Ranking Member Brown, and Members of the Committee, I appreciate the opportunity to testify on behalf of the FDIC on regulatory relief for community banks. As the primary Federal regulator for the majority of community banks, the FDIC has a particular interest in understanding the challenges and opportunities they face.

Community banks provide traditional, relationship-based banking services to their communities. Although they hold just 14 percent of all banking assets, community banks account for about 45 percent of all of the small loans to businesses and farms made by insured institutions.

While more than 400 community banks failed during the recent financial crisis, the vast majority did not. Institutions that stuck to their core expertise weathered the crisis and are now performing well. The highest rates of failure were observed among noncommunity banks and among community banks that departed from the traditional model and tried to grow rapidly with risky assets often funded by volatile brokered deposits.

The FDIC is keenly aware of the impact that its regulatory requirements can have on smaller institutions, which operate with fewer staff and other resources than their larger counterparts. Therefore, the FDIC pays particular attention to the impact its regulations may have on smaller and rural institutions that serve areas that otherwise would not have access to banking services.

The FDIC and the other regulators are actively seeking input from the industry and the public on ways to reduce regulatory burden through the Economic Growth and Regulatory Paperwork Reduction Act process, which requires the Federal financial regulators to review their regulations at least once every 10 years, to identify any regulations that are outdated, unnecessary, or unduly burdensome. As part of this process, the agencies are jointly requesting public comment on our regulations. We are also conducting regional outreach meetings involving the public, the industry, and other interested parties.

In response to what we have heard in the first round of comments, the FDIC has already acted on regulatory relief suggestions where we could achieve rapid change. In November, we issued two Financial Institution Letters responding to suggestions we received from bankers.

The first Financial Institution Letter, or FIL, released questions and answers about the deposit insurance application process. Commenters had told us that a clarification of the FDIC's existing policies would be helpful.

The second FIL addressed new procedures that eliminate or reduce the need to file applications by institutions wishing to conduct permissible activities through certain bank subsidiaries organized as limited liability companies, subject to some limited documentation standards. This will significantly reduce application filings in the years ahead.

The FDIC takes a risk-based approach to supervision which recognizes that community banks are different than large banks and should not be treated the same. Every FDIC examiner is initially trained as a community bank examiner through a rigorous 4-year program. As a result, each examiner gains a thorough understanding of community banks before becoming a commissioned examiners. These examiners live and work in the same communities served by the banks they examine, ensuring that they are knowledgeable and experienced in local issues important to those banks.

Institutions with lower risk profiles, such as most community banks, are subject to less supervisory attention than those with elevated risk profiles. For example, well-managed banks engaged in traditional, noncomplex activities receive periodic, point-in-time safety and soundness and consumer protection examinations that are carried out over a few weeks. In contrast, the very largest FDIC-supervised institutions receive continuous safety and soundness supervision and ongoing examination carried out through targeted reviews during the course of an examination cycle.

The FDIC also considers the size, complexity, and risk profile of institutions during rulemaking and supervisory guidance development processes and on an ongoing basis through the feedback we receive from community bankers and other stakeholders. Where possible, we scale our regulations and policies according to these factors.

As we strive to minimize the regulatory burden on community banks, we look for changes that can be made without affecting safety and soundness. For example, we believe that the current $500 million threshold for the expanded 18-month examination period could be raised. In addition, we would support Congress' efforts to reduce the privacy notice reporting burden.

We also think it would be worthwhile to review various longstanding statutory and regulatory thresholds to see if they should be changed.

In conclusion, the FDIC will continue to pursue regulatory burden reduction which achieves the fundamental goals of safety and soundness and consumer protection in ways that are appropriately tailored for community banks. We look forward to working with the Committee in pursuing these efforts.

Chairman SHELBY. Ms. Hunter.

STATEMENT OF MARYANN F. HUNTER, DEPUTY DIRECTOR OF THE DIVISION OF BANKING SUPERVISION AND REGULATION, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Ms. HUNTER. Thank you. Chairman Shelby, Ranking Member Brown, and other Members of the Committee, I appreciate the opportunity to testify on the important topic of community banks and our efforts to reduce regulatory burden on these institutions.

Having begun my career more than 30 years ago as a community bank examiner at the Federal Reserve Bank of Kansas City and eventually becoming the officer in charge of supervision at the Reserve Bank, I have seen firsthand how critical it is that we balance effective regulation and supervision to ensure the safety and soundness of community banks while also ensuring that undue burden does not constrain the capacity of these institutions to lend to the communities they serve.

I last testified before this Committee in September of 2014, and at that time I testified that, in the wake of the financial crisis, the Federal Reserve has spent the past several years revising our community bank supervisory programs to make them more efficient and less burdensome for well-run institutions.

For example, we have continued to build upon our longstanding risk-focused approach to supervision, reviewing field procedures, refining training programs, and developing automated tools for examiners to focus their attention on areas of higher risk, reducing some of the work at low-risk, well-managed community banks.

Furthermore, we developed programs to conduct more examination work off-site, such as the loan review, to reduce the time the examiners spend physically in the bank.

We also have an initiative underway to use forward-looking risk analytics to better identify high-risk areas within community and regional banks which would allow examiners to focus their examination time on the areas of highest risk and reduce burden on the low-risk institutions.

In January of this year, the Federal Reserve responded to legislation passed by Congress in December of 2014 related to the scope of the Federal Reserve's Small Bank Holding Company Policy Statement. Specifically, the Federal Reserve Board issued an interim final rule and a proposed rule to implement Public Law 113–250. Effective immediately, the interim rule adopted by the Board excludes small savings and loan holding companies with less than $500 million in consolidated assets, which also meet certain qualitative requirements, from the Board's consolidated regulatory capital requirements, thus putting them on par with similarly situated bank holding companies.

The Federal Reserve Board also issued a Notice of Proposed Rulemaking that would raise the asset threshold from $500 million to $1 billion for determining applicability of the Small Holding Company Policy Statement and expanded its scope to also include savings and loan holding companies.

The policy statement facilitates the transfer of ownership for community banks by allowing their holding companies to operate with higher levels of debt and, thus, lower levels of consolidated capital than would otherwise be allowed.

Additionally, the Federal Reserve Board took immediate steps beyond what was required in the legislation to relieve regulatory reporting burden for bank holding companies and savings and loan holding companies that have less than $1 billion in total consolidated assets and also meet the qualitative requirements of the policy statement.

The Board has proposed to eliminate quarterly consolidated financial requirements in the FR Y–9C report for those institutions and instead require semiannual parent-only financial statements. The Federal Reserve immediately notified the affected institutions so they would not continue to invest in system changes to report regulatory capital data for only a short period of time.

The changes in the threshold for the Small Holding Company Policy Statement and the related reductions in reporting have significantly reduced consolidated capital requirements and reporting burden for more than 700 small institutions. More than 40 percent of the institutions that were required to file the 60-page consolidated financial statements every quarter now will file only an 8-page report twice a year, resulting in a significant reduction in burden.

A second key development since September is the beginning of the interagency review of regulations in accordance with the Economic Growth and Regulatory Paperwork Reduction Act, or as it is also known, the EGRPRA process. We are working closely with our counterparts at the OCC, FDIC, and State supervisors to seek public comment and hold outreach meetings to get feedback directly from bankers and from community groups about ways to reduce burden related to our rules and examination practices. To date, the meetings held in Los Angeles and Dallas have yielded some useful and specific suggestions for consideration and review.

Let me conclude by emphasizing that we are committed to listening and considering ideas for reducing burden through the EGRPRA process. We want to ensure that our regulations and examination activities are appropriately tailored to the level of risk inherent in community banks. We strive to balance our safety and soundness objectives with the need to reduce unnecessary burden to ensure that small institutions can continue to meet credit needs in their local communities.

Thank you for inviting me to share our views on these matters, and I look forward to answering any questions you may have.

Chairman SHELBY. Mr. Bland.

STATEMENT OF TONEY BLAND, SENIOR DEPUTY COMPTROLLER FOR MIDSIZE AND COMMUNITY BANK SUPERVISION, OFFICE OF THE COMPTROLLER OF THE CURRENCY

Mr. BLAND. Chairman Shelby, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to appear before you today to discuss the challenges facing community banks and Federal savings associations and the actions the OCC is taking to help these institutions address regulatory burdens.

I have been a bank examiner for more than 30 years, and I have seen firsthand the vital role community banks play in meeting the credit needs of consumers and small businesses across the Nation.

At the OCC we are committed to supervisory practices that are fair and reasonable and to fostering a climate that allows well-managed community banks to grow and thrive. We tailor our supervision to each bank's individual situation. We take into account the products and services it offers as well as its risk profile and management team.

Given the wide array of institutions we oversee, the OCC understands that a one-size-fits-all approach to regulation does not work. Therefore, to the extent that the law allows, we factor these differences into the rules we write and the guidance we issue.

My written statement provides several examples of the commonsense adjustments we have made to recent regulations to accommodate community bank concerns. Guiding our consideration of every proposal to reduce burden on community banks is the need to ensure that fundamental safety and soundness and consumer protection safeguards are not compromised.

Within this framework, to date we have developed three regulatory relief proposals that we hope Congress will consider favorably. We are also undertaking several efforts to identify and mitigate other regulatory burdens through a regulatory review process.

The first proposal we submitted to Congress would exempt some 6,000 community banks from the Volcker rule. As the vast majority of banks under $10 billion in assets do not engage in the proprietary trading or covered funds activities that the statute sought to prohibit, we do not believe that they should have to commit resources to determine if any compliance obligations of the rules would apply. We do not believe this burden is justified by the nominal risk that these institutions could pose to the financial system.

We also support changing current law to allow more well-managed community banks to qualify for a longer—18 months—examination cycle. Raising the threshold from $500 million to $750 million for banks that would qualify for this treatment would cover an additional 300 community banks.

We also support providing flexibility for Federal thrifts so that those thrifts that wish to expand their business model and offer a broader range of services in their communities may do so without the burden and expense of a charter conversion. Under our proposal, Federal thrifts could retain their current governance structure without unnecessarily limiting the evolution of their business plan. As the supervisor of both national banks and Federal thrifts, we are well positioned to administer this new framework without requiring a costly and time-consuming administrative process.

I am also hopeful that the ongoing efforts to review current regulations to reduce or eliminate burden will bear fruit. I just returned from the second public EGRPRA meeting in Dallas where regulators heard ideas to reduce burden from a number of interested stakeholders. The agencies are currently evaluating the comments received from these meetings and from the public comment process. While this process will unfold over a period of time, the OCC will not wait until it has completed the implemented changes where a good case is made for relief or to submit legislative ideas identified through this process to Congress.

Separately, the OCC is in the midst of a comprehensive, multiphase review of our own regulations and those of the former OTS to reduce duplication, promote fairness in supervision, and create efficiencies for national banks and Federal savings associations. We are currently reviewing comments received on the first phase of our review focusing on corporate activities and applications.

Finally, we are continually looking for innovation ways to reduce burden. Last month, the OCC published a paper that focused on possibilities for community banks to collaborate to manage regulatory requirements, trim costs, and better serve their customers. We believe there are opportunities for community banks to work together to address the challenges of limited resources and acquiring the necessary expertise.

In closing, the OCC will continue to carefully assess the potential effect that current and future policies and regulations may have on community banks, and we will be happy to work with the industry and the Committee on additional ideas or proposed legislative initiatives.

Again, thank you for the opportunity to appear today. I would be happy to respond to questions.

Chairman SHELBY. Thank you.

Mr. Fazio.

STATEMENT OF LARRY FAZIO, DIRECTOR, OFFICE OF EXAMINATION AND INSURANCE, NATIONAL CREDIT UNION ADMINISTRATION

Mr. FAZIO. Good morning, Chairman Shelby, Ranking Member Brown, and Members of the Committee. Thank you for the invitation to discuss regulatory relief for credit unions.

While NCUA regulates 6,350 credit unions with $1.1 trillion in assets, over three-quarters of these federally insured credit unions have less than $100 million in assets. Because these credit unions have fewer resources available to respond to marketplace, technological, legislative, and regulatory changes, NCUA is acutely aware of the need to calibrate our rules and our examinations to remove any unnecessary burden on these smaller credit unions.

As a result, NCUA scales our regulatory and supervisory expectations when it is sensible and within the agency's authority to do so.

Where regulation is needed to protect the safety and soundness of credit unions, the savings of members, and the Share Insurance Fund, NCUA uses a variety of targeting strategies. These strategies include fully exempting small credit unions from rules, using graduated requirements as size and complexity increase for other rules, and incorporating practical compliance approaches into agency guidance. Thus, we work to balance maintaining prudential standards with minimizing regulatory burden.

Since 1987, NCUA has undertaken a rolling 3-year review of all of our rules and regulations, and although not required by law, NCUA is again voluntarily participating in the current EGRPRA review. These reviews conduct retrospective analysis with an eye toward streamlining, modernizing, or even repealing regulations that are not necessary.

Over the past 3 years, NCUA has also taken 15 actions through the agency's Regulatory Modernization Initiative to cut red tape and provide lasting benefits to credit unions. These actions include: easing eight regulations, including modernizing the definition of a small credit union, to prudently exempt thousands of credit unions from several complex rules; streamlining three processes, facilitating more than 1,000 low-income designations, and increasing blanket waivers; and issuing four legal opinions, allowing more flexibility in credit union operations.

Next week, the NCUA Board will consider a proposal to increase the asset threshold for defining "small entity" under the Regulatory Flexibility Act. If approved, this change would provide transparent consideration of regulatory relief for a greater number of credit unions in future rulemakings.

Going forward, NCUA Board Chairman Debbie Matz has announced plans to consider streamlining the member business lending rule, finalize regulatory relief on holding fixed assets, and simplify the process for adding some types of associational groups to credit unions' fields of membership.

NCUA is also revising our examination process to provide relief. Through our small credit union examination program, NCUA spends less time on average now in small, well-managed credit unions. NCUA is further working to reduce the time spent on-site conducting exams and to improve their consistency in this process.

Concerning legislation, NCUA appreciates the Committee's recent efforts to enact laws to provide share insurance coverage for lawyers' trust accounts and enable federally insured financial institutions to offer prize-linked savings accounts.

NCUA would advise Congress to provide regulators with flexibility in writing rules to implement new laws. Such flexibility would allow us to scale rules based on size and complexity to effectively limit additional regulatory burdens on smaller institutions.

NCUA also supports several targeted regulatory relief bills for credit unions. These bills include: legislation to allow healthy and well-managed credit unions to issue supplemental capital that will count as net worth; permit all Federal credit unions to grow by adding underserved areas; raise the cap on member business lending to support small businesses; and exempt one- to four-unit non-owner-occupied residential loans from the member business lending cap.

Finally, parallel to the powers of the FDIC, OCC, and Federal Reserve, NCUA asks for the authority to examine and enforce corrective actions where needed at third-party vendors. NCUA's draft legislation would provide regulatory relief for credit unions and close a growing gap in NCUA's authority to work directly with key infrastructure vendors, like those with a cybersecurity aspect. This would allow us to obtain necessary information to assess risks and deal with any problems at the source.

In closing, NCUA remains committed to providing regulatory relief and streamlining examinations. We also stand ready to work with Congress on related legislative proposals. I look forward to your questions.

Chairman SHELBY. Ms. Franks.

STATEMENT OF CANDACE A. FRANKS, COMMISSIONER, ARKANSAS STATE BANK DEPARTMENT, ON BEHALF OF THE CONFERENCE OF STATE BANK SUPERVISORS

Ms. FRANKS. Good morning, Chairman Shelby, Ranking Member Brown, and distinguished Members of the Committee. My name is Candace Franks, and I serve as bank commissioner of the Arkansas State Bank Department. I am also chairman of the Conference of State Bank Supervisors. It is my pleasure to testify today on behalf of CSBS.

I would like to thank Congress and this Committee for your focus on community banks. In my 35 years as a State regulator, I have seen firsthand the positive local impact of community banks. These banks are critical to providing access to credit in urban as well as rural areas, and they are important to building and maintaining consumer confidence in our financial system.

One out of every five U.S. counties has no physical banking offices except those operated by community banks. In my home State of Arkansas, a very rural State, there are 96 towns that have only one physical banking location. For these small rural towns, the community banking system is the banking system.

Community banks excel at relationship lending, making them a vital source of credit for small businesses. In fact, community banks play an outsized role in lending to small businesses, holding 46 percent of loans to small businesses and farms.

Regulators must constantly improve the way we conduct supervision to ensure a balanced approach. This allows banks to contribute to the stability and resiliency of the economy and strengthens the diversity that exists in the banking system. As State regulators have examined various approaches to right-sizing community bank regulation, we have found that community banks cannot be defined by simple line drawing based on asset thresholds. While asset size is relevant, there are other factors. Factors like market areas, funding sources, and relationship lending are characteristics I as a bank regulator understand and witness on a daily basis. We need a process that identifies the relevant factors and provides flexibility in how those factors are weighed and considered.

This new definitional approach sets a foundation for other measures to tailor regulation and supervision to the community bank business model, for example, providing that application decisions affecting community institutions do not set precedent for other types of institutions or conferring QM status onto all mortgages held in portfolio by community banks.

While much needs to be done to right-size community bank regulation, I want to recognize some significant steps already taken. The CFPB's proposed changes to its mortgage rules would give more banks flexibility to make loans to their customers. CSBS commends Congress for passing a bipartisan provision requiring that at least one member of the Federal Reserve Board have experience either as a supervisor of community banks or a community banker. This new requirement reaffirms that community banks are an integral part of the financial system.

Similarly, we ask Congress to reaffirm the existing legal requirement that the FDIC Board includes an individual with State regulatory experience. A seat at the table will not automatically result in a right-sized regulatory framework. Additionally, we must truly understand the state of community banking and the issues they face. This is why CSBS has partnered with the Federal Reserve to attract new research on community banking. This research will help us develop a system of supervision that provides for a strong, enduring future for the dual banking system.

Work from the Community Bank Research Conferences held by CSBS and the Federal Reserve has demonstrated there is real value in the relationship lending model used by community banks. One study presented at the 2013 conference found that proximity to a community bank enhances the chance for survival of startup companies. Our hope is this research will inform legislative and regulatory proposals and appropriate supervisory practices and will move us closer to a right-sized regulatory framework.

There are significant operational and strategic differences among our Nation's banks. These differences reflect the admirable diversity of our financial system. Our regulatory approach must also reflect this diversity.

Thank you for the opportunity to testify today, and I look forward to your questions.

Chairman SHELBY. Thank you.

I will direct my first question to Ms. Eberley. According to the FDIC, only two de novo Federal banking charters—two—have been approved since 2009. Since 1990, we have lost more than 3,000 banks, including 85 percent of banks with assets under $100 million. Equally concerning to a lot of us is that no new banks are being created because of barriers of entry.

Is the FDIC concerned about the lack of new banks? And what specific step is your agency taking to address the issue, if you are? And what legislative solutions might resolve some barriers to entry but keep the safety and soundness of the system intact, which we all want to do? Ms. Eberley.

Ms. EBERLEY. Thank you. I think the issue is one of where we are in the economic cycle versus one of legislative barriers or even regulatory barriers.

As I mentioned, in the EGRPRA process we were asked to clarify the application process for deposit insurance, and we have done that. Our policy has not changed. It remains the same. We had one application in 2014. That application remains in process. It came toward the end of the year.

But I think the numbers of de novo's do not reflect the interest actually in community banking. If you instead look at the dollar amount of capital that has flowed into the community bank industry since 2008, it is $43 billion. That indicates that there is investor interest in supporting community banks and belief in the viability of the community bank model. And I believe that capital at some point will shift into de novo institutions as the economy continues to improve and as the inventory of small troubled banks continues to decline.

Chairman SHELBY. Do you see any legislative proposals, or do you have any of your own?

Ms. EBERLEY. No.

Chairman SHELBY. Do you like what the regulations call for now?

Ms. EBERLEY. The regulations that govern applications for deposit insurance—and there are two pieces to it, so there is the charter as well, which we do not grant. The charter would either come from the State authority or the Office of the Comptroller of the Currency in the case of a national bank. But the guiding principles for us are the statutory factors for deposit insurance in the FDI Act, and we think they are relevant today.

Chairman SHELBY. I understand that the FDIC, the Federal Reserve, and the OCC are currently undertaking a regulatory review under the Economic Growth and Regulatory Paperwork Reduction Act. This act requires, among other things, a review of all regulations prescribed by your agencies. But buried in a footnote in the related *Federal Register* notice, you have indicated that you will not review certain rules.

Who decided to exclude regulations from this review and based on what authority? You do not need to tell us why they did it. We just want to know who made the decision. Was it made at the very top? We will start again with you, Ms. Eberley, and then go to the OCC and the Fed.

Ms. EBERLEY. We work on this through the Federal Financial Institution Examination Council with the benefit of our Legal Advisory Group. The regulations that were excluded are regulations that are new, so recently enacted, and that is the basis, as I understand it, for excluding them.

Chairman SHELBY. OK. Ms. Hunter, do you have any comment?

Ms. HUNTER. Yes, that is my understanding as well. It is just the newer regulations require more time to get experience with exactly how they are operating and where the burden might be. So that was really the basis for that.

Chairman SHELBY. Mr. Bland, do you have any——

Mr. BLAND. Chairman Shelby, I would just add that while the footnote says that, I have attended both the Los Angeles and the Dallas one, and in the spirit of just hearing from the bankers and other stakeholders, we have been open to any and all proposals or thoughts they have had. And so part of the process is to just be as open and hear as candid from them on regs that are of interest to them.

Chairman SHELBY. Who made that decision? Was it the Chairman of the Federal Reserve?

Mr. BLAND. I am not aware of that.

Chairman SHELBY. Was it the Comptroller of the Currency? Was it the Chairman of the FDIC? Somebody made the decision. We just want to know who.

Mr. BLAND. We can find out for you, Chairman.

Chairman SHELBY. Will you furnish that for the record?

Mr. BLAND. We will find out who made that decision.

Chairman SHELBY. OK.

This leads me to the cost-benefit analysis for regulatory review. I am a believer in empirical analysis when it comes to regulations. If a regulation's costs outweigh its benefits, I believe it should be thrown out. Does anyone disagree? And if so, why? In other words, if a regulation's cost, you weigh that, outweigh its benefits, should we keep it? Mr. Bland, if a regulation's costs outweigh its benefits, should it be thrown out?

Mr. BLAND. Chairman Shelby, the issue of cost-benefit, if it should be thrown out, you know, also when you enact legislation, it needs time to see what the effectiveness is. And so——

Chairman SHELBY. But ultimately if you had time to analyze it and if its costs to the banking system outweigh its benefits to the public, should we have it? In other words, it would be weighed in the balance, and should it be gone?

Mr. BLAND. Chairman Shelby, in the strictest sense, I understand your point. But one of the things that is important——

Chairman SHELBY. Do you disagree with me?

Mr. BLAND. No. I was going to make this point.

Chairman SHELBY. OK.

Mr. BLAND. There are safety and soundness and consumer protections safeguards——

Chairman SHELBY. Oh, absolutely.

Mr. BLAND. And so that has to be weighed in addition to that——

Chairman SHELBY. Absolutely. That would be one of the costs— or benefit to the public, benefit versus cost.

What about you, Ms. Hunter? What is your thought?

Ms. HUNTER. Well, I would add to Mr. Bland's comment that the challenge is that it is easy to measure the costs because they fall to specific institutions. It is much harder to measure the benefits because they really accrue to a very broad population, things like safety and soundness of the banking system or confidence in the payment system. So that is really the challenge in assessing costs and benefits. I do think that it is worth doing that analysis, and I know when we propose rules, we look first at what was the benefit that the statute was intending to try to achieve. You know, what was that goal? And then try to fashion rules that minimize the cost of achieving that goal as best we can. And, obviously it takes time to understand exactly how it gets implemented in the industry.

Chairman SHELBY. But that is part of the process, is it not, to weigh the costs versus the benefits. That is part of your job as a regulator, is it not?

Ms. HUNTER. It is, and it is part of the process we go through when we develop rules responding to statutory mandates——

Chairman SHELBY. What about the FDIC?

Ms. EBERLEY. I would add to what Ms. Hunter said, the challenge is quantifying the benefits of a safe and sound banking environment and the lack of failures, the lack of economic loss, that is the challenge.

Chairman SHELBY. It is.

Ms. EBERLEY. And it is a difficult thing to quantify when you are going with a cost-benefit analysis.

Chairman SHELBY. I do not disagree with you, but you would weigh the costs versus the benefits. If the benefits outweigh the costs, keep the regulation. If it does not, it ought to fall. But that is a big debate we have going, because we are talking about overregulating smaller banks and so forth, the costs to them versus the benefit to the public, I guess.

OK. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. Thank you all for joining us, the four of you that were at our September 16th hearing, the four Federal regulators. Thank you for being here, Ms. Franks. Thank you for joining us on this one.

Ms. Hunter, a question for you. Over the weekend, the major story broke in U.S. and European media outlets, including "60 Minutes", about a trove of HSBC account holder data that reveals the HSBC Swiss banking arm collaborated in efforts by some of its account holders to engage in tax evasion. I understand European tax officials recovered huge amounts of back taxes from and imposed large penalties on some of these account holders. I understand that the IRS received this information in 2010, 5 years ago. Would they normally share that information immediately with the Fed?

Ms. HUNTER. Well, in response to your question, I will first say I did not personally see the piece that was on "60 Minutes", but I can say that—we really cannot comment on specific investigations.

Senator BROWN. That is why I asked would you normally get that kind of information.

Ms. HUNTER. In a general sense, when there is an investigation, yes, we do share information when requested by the law enforcement authorities.

Senator BROWN. "Share" meaning you give to them. Do they normally give this kind of information to you?

Ms. HUNTER. It would depend on the case. There would be a dialog about—certainly if they are limited in their ability to share with us, they would not do that. But we provide information upon request. We generally may be aware that there is an investigation going on.

Senator BROWN. OK. I want to ask you something. I take that to mean there is a good chance that you have had this, that the

Fed has had this information for quite some time. I gather investigations of some individual U.S. account holders identified by these leaks have been undertaken by IRS.

My question is this: HSBC has a recent history of major U.S. sanctions and money-laundering violations. They now face these new charges of facilitating tax evasion. Summarize, if you will, for the Committee what the Fed has done with respect to HSBC to pursue these tax evasion allegations, what conclusions you may have reached regarding HSBC's responsibility for these activities, and what steps you are taking with other Federal officials to pursue these matters.

Ms. HUNTER. OK. Well, first of all, again, I cannot really speak to the specific matter that is under investigation, but I can tell you that, with respect to HSBC—we have entered into three formal enforcement actions, consent, cease, and desist orders, and those relate to Bank Secrecy Act and AML compliance. There is one related to mortgage servicing activities and one related to compliance risk management in general. So we have been obviously working on issues with the firm related to compliance generally.

I will say that in any situation where there is an investigation, if we have evidence or we are provided with evidence that there is a violation of law or breach of safety and soundness based on activities, and especially those that might involve tax evasion, we take that very seriously. We would favor certainly moving forward, and I am firmly committed to taking any appropriate sanctions or penalties that would accrue from the outcome of that work.

Senator BROWN. These are, as you know, very serious accusations and in some cases more than accusations, as we found. And this Committee, a lot of us, will be watching the Fed's actions on this, so we will be in touch about that.

Ms. HUNTER. We agree they are very serious accusations.

Senator BROWN. A question for the four Federal regulators, one question. Each of your agencies must comply with a slew of requirements when writing rules. This is a bit of a follow-on to Chairman Shelby's question. The Administrative Procedures Act, the Regulatory Flexibility Act, the Paperwork Reduction Act—these require you to publish rules for public comment, review rules for impacts on small businesses, consider less burdensome alternatives, reduce the paperwork burden. You are also currently undertaking the EGRPRA review process to identify burdensome and outdated regulations.

The question is this—a couple of questions, and if you would just start with Ms. Eberley and work your way down. Do you think your agency adequately takes into account the costs and benefits of the rules you write? What impact would additional analysis requirements have on your ability to implement new rules? Might some of these proposals actually stop rulemaking in its tracks or slow it down so the burden is too great to move forward? Ms. Eberley, we will begin with you, please.

Ms. EBERLEY. OK. Well, we certainly do try to carry out the cost-benefit analysis. Under our policy on rulemakings, we consider the costs, the benefits, and alternatives based on available data. We ask a lot of questions during the rulemaking process to garner the impact on institutions, and we are particularly interested in the feedback we get from community banks about the costs of the regulation or the ways that it would impact the institution. And we make changes based on the information that we hear.

As to your second question, which was about whether additional requirements would impact that process, I think it would. Anytime you add additional requirements, it makes the process of conducting the analysis more difficult and also would open it up to additional legal challenges.

And your final question was what kind of impact could that have on the process. I think it could certainly slow the process and certainly would make it more cumbersome and limit our flexibility.

Senator BROWN. Thank you.

Ms. Hunter.

Ms. HUNTER. I am not sure I have much more to add to that very complete response. I do agree that it would add complexity to the process, certainly adding extra steps, and those would tend to slow down development of rules. And that can be problematic in the sense that on some occasions the lack of clarity between the time a law is passed and the rule is developed can impose burdens on banks as well, because they are not sure exactly how various requirements might be implemented.

Senator BROWN. Mr. Bland.

Mr. BLAND. The OCC has a very robust economic analysis impact that looks at the quantitative and qualitative factors and to appropriateness of a rule. We also have this process consistent with the OMB guidance, which has been assessed.

And to your last point, the only thing to add is the proposed rules could halt or slow down implementation of rules.

Senator BROWN. And, Mr. Fazio, last.

Mr. FAZIO. I would just echo the comments of my colleagues and indicate that NCUA does take account of all the costs and benefits that we can reasonably catalogue and quantify in our rulemaking process and try to speak to that in the preambles to our rules.

We also take very seriously and find very useful the comments we receive during the rulemaking process. The agency responds to those comments in our preambles to our final rules. We find stakeholder comments very helpful in fine-tuning and calibrating the rules so that we target the rule and keep it as efficient as possible while also providing alternatives, practical alternatives, for credit unions to comply.

Senator BROWN. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman. I have just a few questions.

First, if I could—and I would like to address this to Ms. Hunter—one issue that represents a particular regulatory burden on small banks involves new rules for appraisals. Kansas Fed President Esther George observed at a 2014 conference that market values in smaller rural communities may not have an objective comparison. However, new appraisal rules do not provide requisite flexibility for small businesses and individuals in rural and other small community markets.

Now, while the Fed did not promulgate the appraisal rules, it has to examine them. How are you addressing the small banks' concerns about appraisals in rural communities? And what recommendations would you have to rectify the problem?

Ms. HUNTER. Well, Senator, you raise an excellent point and one that we have certainly heard in our outreach and discussions with community banks, and particularly those in rural areas. The difficulty in getting appraisers who know the community and are able to do the work that is required has been a real challenge, and so this is actually one area where, through the EGRPRA meetings that we have had in Dallas and in Los Angeles, we have actually heard comments about some suggestions that might help alleviate some of the issues in rural areas but also burden more broadly for community banks. And one of the suggestions was to take a look at the threshold for when these appraisals are actually required and for what kinds of deals.

The threshold was last set in 1994, I believe. It is an interagency rule. But it was set in 1994, and it is at $250,000, and there is a higher threshold for some business loans.

In hearing that in the meetings, came back—and speaking for the Federal Reserve, we certainly think it merits a good look at just what that threshold should be, how many deals was it capturing in 1994 versus what the right level might be today; and if we were to raise that threshold, it could achieve the burden reduction and particularly alleviate the problem in rural areas.

Senator ROUNDS. Does anyone else care to comment on that as well? If not, I do have another question, and that would be for, in this case, Ms. Eberley. Kansas Fed President Esther George, once again, said at the same 2014 conference that community banks were considered well capitalized and that their risks understood before Basel III. Yet in spite of that, now community banks must adopt the more complicated capital rules with finer degrees of risk weights and capital buffers. The risk-weighted asset schedule of the Call Report has 57 rows and 89 pages of instructions, even though no additional capital was required for the majority of the community banks. Are 57 rows and 89 pages of instructions simply too much for most community banks? Are they necessary?

Ms. EBERLEY. You know, one of the lessons coming out of the crisis was that the industry as a whole needed higher levels of capital and higher-quality capital, and that is what our interagency capital rules were designed to do. I think it is fair to ask if we can make it more simple for community banks, and then I think that that is something we are open to continuing to look at.

Senator ROUNDS. OK. One more question, and this is for Ms. Franks. There are several legislative proposals to consider as a qualified mortgage all residential mortgage loans made, as long as the loan is included in the lender's portfolio. Can you explain how this would benefit or impact consumers?

Ms. FRANKS. The State bank supervisors believe that that would certainly benefit consumers to have QM loans held in portfolio qualify. We feel like that would be beneficial to a consumer because the local bank knows their customer and they have an inherent interest in ensuring that those banks can repay those loans when they make those loans in the first place. So we think that that would be a great benefit to our consumers.

Senator ROUNDS. Thank you.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Warner.

Senator WARNER. Thank you, Mr. Chairman.

I think we all share common beliefs here that community banks are critically important. They play an outsized role both in relationship lending and particularly lending for small business.

One of the things the Chairman mentioned in his opening comments—and I have heard similar numbers—is that compliance costs have gone up north of 90 percent. I find, though, that when I press my community bankers to specifically enumerate where those costs come from and document them, I get not a lot of specificity.

For all of you, very briefly—because I have got one another follow-up—would you estimate—could you give an estimate of how much compliance costs have gone up since Dodd-Frank for community banks? And is there kind of an enumeration of top three things that you are hearing as you do these sessions around the country? Just go on down the line.

Ms. EBERLEY. We attempted an empirical study in 2012, and the difficulty with doing that is that institutions are not—as you noted, they are not maintaining the kind of information that you could actually just do the math. They do not keep their books in a way that would allow you to gather the data that is necessary. And, in fact, they told us that gathering that data would in and of itself be burdensome. So there is that issue.

But on the EGRPRA front, the comments that we are receiving, the general themes have been mentioned previously, looking at the various thresholds and rules and regulations, some of which have been outstanding for decades, and whether or not those thresholds are still reasonable based on changes in the industry. That is the number one theme through the EGRPRA process.

Senator WARNER. Ms. Hunter.

Ms. HUNTER. Yes, and I would add to that as well, the things we hear most are the lack of specificity is an issue. It is really the time, and it is accumulation of small changes. So at least what I hear from the banks—and we have been hearing in the EGRPRA process sometimes it is a one-time change; it is getting used to a new way of doing things. It might even introduce system changes that they might not have wanted to do at exactly that point in time. So there is an accumulation of burden or an up-front investment of time, and then going forward it is this 5 minutes to review a policy, 10 minutes with the board.

So it is hard to quantify, but that is the kind of thing we are looking for in the EGRPRA process to try to see how we might streamline that.

Senator WARNER. But do you think it is—the 90 percent number that is thrown around, do you think that is an accurate reflection?

Ms. HUNTER. 90 percent increase——

Senator WARNER. In terms of increased compliance cost.

Ms. HUNTER. I do not have the information to be able to evaluate that.

Senator WARNER. Could we finish down the——

Mr. BLAND. Senator Warner, it is a very complex issue, but I have heard in my visits with bankers, it manifests itself in additional resources you have to hire, particularly as it gets more complex, they have to hire folks with a certain specialty, but also diverting their attention away from lending and interacting with their customer base. The impact on staff, though, varies with the size of the institution and the activities they are involved in, but it is real based on what we hear from bankers.

But similar to what was said before, some of the changes are looking at different threshold, but also our collaborative paper that we put out is in recognition of the challenges that institutions have, and by sharing and working together, they can help them manage their costs, but also acquire the experience they need, because the banking business is going through a substantial change. When you overlay technology but also nonbank competition, different products and services, and so that realization of the change, and to be able to offset that with sharing of resources, building expertise, is critical.

Senator WARNER. Very briefly, because I have got one other question.

Mr. FAZIO. I would just echo that. I think it is a case of there is just a lot of change going on now. Part is regulatory; part is marketplace and technological. And it is a lot for the institutions, especially smaller ones, to deal with. It remains to be seen if we will reach a state of equilibrium that, you know, allows them to feel like that is something that they can manage going forward.

We try to help where we can. A lot of the rules that credit unions complain about are not within NCUA's direct authority, and so there is not much we can do, but we do try where we can to help them in complying, have practical approaches, guidance, our Office of Small Credit Union Initiatives, to help them with their planning and with consulting. And so we do what we can.

Ms. FRANKS. Yes, Senator, my institutions generally tell me that the costs are incurred through hiring additional staff and also in implementing and spending the manual time and effort in trying to understand the new regulations and to implement them, and particularly this is difficult in more rural areas and more rural banks where you do not have a large group to choose new——

Senator WARNER. Let me just add, I mean, I think there are certain things, like Senator Rounds mentioned, in terms of forms, I think the thresholds issue. I do think the more we can get some specificity around the kind of pressing our community banks for what the changes are.

I guess the comment I would like to make, Mr. Chairman, is that—and I do not know how you grapple with this. Clearly, with 400 banks failing, we still have to deal with safety and soundness. But my belief is that enhanced prudential standards for the larger institutions, even though we try to bifurcate them toward smaller, have kind of seeped down into the examiners at the smaller banks. And I do not know how you grapple with that best practices standard, but I would love to come back and revisit that.

Chairman SHELBY. Thank you.

Senator Heller.

Senator HELLER. Mr. Chairman, thank you. And it is my wish to follow up on some of your questions, Senator Warner's questions, and Senator Brown's questions as I use up my 5 minutes. But I want to thank everybody for being here. Thanks for taking the time and spending time with us. It is very, very helpful. I am bouncing back between a couple of committees here, and I know a couple of us here are doing the exact same thing. So I just want to make sure I ask the right committees the right questions.

Having said that, and I think the theme here is that the number of financial institutions in this country has shrunk to its lowest level since the Great Depression. I know some of these statistics have already been discussed, but we once in this country had 18,000 banks, and today we have less than 7,000.

In my home State of Nevada, there are about a dozen community banks left, and that is less than half of what there were 5 years ago. The last bank closure occurred June of 2013. There are only 19 credit unions left in the State, serving nearly 340,000 members. Thirty-one percent of Nevadans are unbanked or underbanked, which is the highest in the country. So I guess for the FDIC, is this a concern or a statistic?

Ms. EBERLEY. It is a concern, and it is one of the reasons we conducted a study on consolidation in the banking industry to really look at what are the underlying reasons for consolidation and see what we could learn from that.

What we saw over the period that you talked about, with the decline of institutions from 18,000 down to less than 7,000, is that about 20 percent of the consolidation that occurred over that period was from failures that were really isolated into two significant crises primarily. And so to the extent that we can avoid financial crises in the future through strong supervision and good regulation, that will go a long way toward protecting institutions.

The other 80 percent of consolidation we considered voluntary, and it was a mix of institutions that were merging with unrelated companies and institutions that were consolidating with related companies. The biggest single wave of that activity that really accounted for a substantial part of the voluntary consolidation occurred after the relaxations on interstate branching through Riegle-Neal and other State initiatives in the mid- to late 1990s. So that was the single biggest period. That can only happen once. So, you know, we do not expect to see large waves like that again.

What is missing from the equation is de novo's. We do expect that, as the economy continues to improve, we will see some de novo activity again, and we are looking at it that way.

The other point I might make——

Senator HELLER. Ms. Eberley, I do not have a lot of time, so——

Ms. EBERLEY. I am sorry.

Senator HELLER. And I hate to cut you off, but I do have to get to my questions. This was brought up, and, again, I want to follow up on the Chairman's comments about this application process. I do not know if the Community Bank of Pennsylvania has been brought up in this hearing. It is the first new federally approved bank since 2010. In the process of applying, the Pennsylvania bank raised $17 million from investors but had to spend nearly $1 million just in application fees, and the attorneys said that it was 8 to 16 inches of application pages in order to get it chartered.

I guess the question is, quickly: If you have to spend $1 million to open up a bank in America today, how many more banks do you anticipate are going to pay that price?

Ms. EBERLEY. We do not charge any application fees for applications for deposit insurance. There is no fee associated with that. Institutions do have startup costs as they go through the process——

Senator HELLER. But you understand what I am saying. We are talking about the cost of putting together 16 inches of paperwork, lawyers and accountants and everybody else that you have to put together. It cost them $1 million. Is this what we can expect in the future from the FDIC as costs? The question is: Are you going to open a bank today if you have those kind of costs?

Ms. EBERLEY. That sounds like a large figure based on my experience.

Senator HELLER. Let me just go to Senator Warner's comments about costs and how they are not getting answers from small community banks in his State. I tell you, I am getting answers from the small community banks, and, Mr. Bland, I think you touched on it, and that is, personnel costs. We have small banks in Nevada that are being audited by the Feds. There are no exceptions, clean books, but then being required—required—to hire another compliance officer. And they are saying, "Where are we going to come up with $120,000 to $150,000 to pay for another compliance officer, even though we have no exceptions?" That is part of the problem of what is going on.

So I want to ask—do I have a minute, Chairman? On EGRPRA, I just want to ask one quick question on EGRPRA.

Senator TOOMEY. [Presiding.] OK.

Senator HELLER. Will you consider Dodd-Frank's regulations during the EGRPRA process?

Mr. BLAND. I will take a stab.

Senator HELLER. OK.

Mr. BLAND. Given that the EGRPRA process is looking at rules, established rules that are outdated, overly burdensome, and unnecessary, most of the Dodd-Frank rules that the OCC is responsible for have not been implemented yet or have taken effect. And so it is not, we feel, appropriate to look at those rules at this time.

Senator HELLER. But isn't it true, though, we will not have another EGRPRA study for another 10 years?

Mr. BLAND. That is true.

Senator HELLER. And so if we do not include Dodd-Frank——

Mr. BLAND. But I would say that the OCC, as part of our normal practice, looks at whether rules are appropriate in terms of relevance, and we will make changes without waiting for the next EGRPRA process.

Senator HELLER. OK. To all of you, thank you very much for being here.

Mr. Chairman, thank you.

Senator TOOMEY. Senator Heitkamp.

Senator HEITKAMP. Thank you, Mr. Chairman.

I think you are getting a theme here that this is not a partisan issue, this is not something that there is a lot of disagreement on this Committee about. We are deeply concerned about the status of community banks in this country, deeply concerned about what we hear back home in terms of overregulation, compliance burden, extra paperwork, what needs to happen. And I look at this in kind of two different ways.

First, you have got the obligation to make sure that your rules make sense, to make sure that you are doing the lookback; when you are enacting these rules, you are actually sensitive to some of the issues like appraisals, some of the issues like extra compliance and burden. These banks did not create the problem, but yet they feel like they have the lion's share of the burden because they do not have the economies of scale. And so what was too small—you know, too big to succeed—or too big to fail has now become to small to succeed. So it has then allowed new entrants into the market that are competing without the burden of regulation, but also has really made—not just look at shutting down banks or closing down banks but removing lines of credit, especially in the mortgage area.

And so I want to kind of get to two points. It would be very informative to know what reactions you have had to what you have already heard in the Dodd-Frank arena, what reactions you have had to what you have already heard about the need for accommodation and retreat on some of the regulation.

On the other hand, Mr. Bland, you said to the extent the law allows, and I think that is the other challenge we have here, is trying to figure out where we are going to put the burden on you to solve this problem and where we need to be a partner. And so I am curious, as you have been going through the EGRPRA process, as you have met with the community bankers in your meetings, what are you hearing about Dodd-Frank that would be impossible for you to fix without legislative action?

Mr. BLAND. Our primary focus has not been on Dodd-Frank in the EGRPRA process, but, what we——

Senator HEITKAMP. I would imagine they do not hesitate to tell you about it, though.

Mr. BLAND. In a kinda-sorta way, they get at it.

[Laughter.]

Mr. BLAND. But I think those themes that you touched on are the important ones in terms of the impact relative to the institution. And I think part of the discussion we had earlier about what is a community bank I think is an important one because where it used to be traditional services in a defined market, it is really being stretched in terms of definition when you overlay the competition. But banks are really challenged by what is the right business model and making sure that the rules and regs and our policies and practices mirror what those institutions are——

Senator HEITKAMP. But I think our point is, as they are trying to meet those challenges, whether it is technology and competing with online banking, competing with folks who do not have these regulations as their challenge, we do not want to add additional unnecessary burden on that challenge. And so I think one of the things that would be extraordinarily helpful for me, as you kind of go back and look, is to take a look at what you have already done in response to concerns that have been raised, and not looking at EGRPRA but looking at Dodd-Frank, and then taking a look at where you are sympathetic to the concerns that community banks or smaller institutions have and what we need to do to fix those concerns, because the viability of financial institutions going forward is dependent on its diversity. And I could tell you stories about community bankers who did not use QM, but yet were able to do 200 mortgages on an Indian reservation that they would not have gotten otherwise. That is relationship banking, and none of us here want to preside over a Federal policy that eliminates the need for relationship banking.

And so I just would appreciate any information that you could get to me about what accommodations you have already made and then what needs to happen, in your judgment, beyond that to accommodate the concerns that you are hearing. And, you know, we all have a role to play. I think that you guys have heard and are starting to react, but this idea—and I think the Chairman talked about cost-benefit and so did Mark. How do you evaluate costs? It is not good enough to say, "I do not know." We have got to get to the point where we do know so that we can evaluate the risk-benefits of what we are doing in this arena, especially as it relates to small institutions.

Senator TOOMEY. Senator Vitter.

Senator VITTER. Thank you. I want to start by thanking the Chair for calling this hearing and certainly echoing his introductory comments. I think there is great opportunity on a bipartisan basis to move forward with some regulatory relief for smaller institutions. And as one piece of evidence of that, Senator Brown and I have a bill. The discussion of it has dominated on the section which requires higher capital standards or megabanks, but it also have a very important separate section offering some significant regulatory relief for community banks. And I think that is one example of bipartisan work in that direction. I hope this Committee will produce that sort of movement.

Let me ask all of our guests, in general, what do you think or what have you measured as the increase in compliance costs burden in the last few years on community banks specifically?

Ms. EBERLEY. As I mentioned, we did try to do an empirical study in 2012, and the data is just not there to complete the study. I can share some anecdotal information that would suggest that some of Dodd-Frank's provisions that were designed to eliminate too big to fail may, in fact, be leveling the playing field.

One of the things that we have seen is loan growth in community banks compared to the industry. Last year we started putting out our quarterly banking profile with a separate section dedicated to community banks and just their financial information. That shows that community bank loans grew year over year and quarter over quarter at a greater pace than the industry, and it was about 2:1.

Senator VITTER. OK. What about my question, which was compliance costs?

Ms. EBERLEY. I mentioned we had attempted to do an empirical study, and we cannot——

Senator VITTER. OK. So you do not know. Does anyone else have any general perceptions or studies regarding compliance costs of community banks in the last few years?

Ms. HUNTER. I would only add that the Federal Reserve cosponsors a research conference with the Conference of State Bank Supervisors. We have had two of those conferences. There have been some papers presented at those conferences, getting at this very issue. Not having the details in front of me on exactly what each study said or did, I would not want to quote them directly, but I do recall, for example, one paper looked at the very smallest institutions and found that having to hire one more compliance staff member made the difference between profitability and nonprofitability.

So those kinds of studies are really helpful in that we take that information and when we think about the impact of new requirements and as we are implementing them, try to take the least burdensome path to achieving the result that was intended in the law.

Mr. BLAND. Senator Vitter, we do not have any assessments like that.

Senator VITTER. OK. Anybody else have any?

Ms. FRANKS. I would just echo what Ms. Hunter said as far as the Community Bank Research Conference, because we have had some papers presented that do address some of those issues, particularly on small banks, and we will be glad to get that information to you, Senator.

Senator VITTER. OK. Well, I would really commend this issue to all of you. It is pretty darn important. Compliance costs have mushroomed. That impacts every financial institution, but it disproportionately impacts smaller ones for the reasons Ms. Hunter suggested. You know, if you increase compliance costs 100 percent, Citi is in a much better position to deal with that than a small community bank for whom it can literally put them under or cause them to have to sell out—a trend which is clearly accelerating. So I really commend that to you. It is awfully important, and certainly my perception, talking to community banks every week, is that the burden is enormous. For the most part, they are dealing with things, solutions for things they had—problems they had nothing to do with, and yet the burden on them is far bigger proportionally than it is on larger institutions.

Another theme I hear all the time from smaller banks is real concern that Dodd-Frank and other recent regulation is pushing toward a one-size-fits-all, very standardized model for products. And they really think that is taking away their whole reason for existence in essence, their whole niche in the market. And in that context, the qualified mortgage issue comes up a lot.

Do you hear that from community banks? And what is your reaction?

Ms. EBERLEY. We have heard a lot from community banks about the concerns with the ability to repay and QM rules, primarily relating to the definitions of rural and small bank. We have shared those concerns with CFPB as we have heard them, and CFPB has recently put forth a Notice of Proposed Rulemaking to respond to the concerns that they have heard from community banks and offering some expanded designations.

Senator TOOMEY. Thank you.

Senator VITTER. OK.

Senator TOOMEY. Senator Merkley.

Senator MERKLEY. Thank you, Mr. Chair.

The feedback that I get from my community banks around costs, around the general topic we are discussing, are overlapping audits, visits from different regulatory bodies, uncoordinated—too many staff coming in, overwhelming the local institution, the costs of preparing for that.

You mentioned, Ms. Eberley, the 2012 study. In that study, the community banking study, was there an effort to step into the mind-set of a community bank and look at it from their point of view in terms of how many regulators are coming, how often, in what kinds of numbers, and whether there is a way to coordinate that whole set of activities in order to diminish the burden on community banks while achieving the core purposes of the regulatory visits?

Ms. EBERLEY. At the same time that we completed the data study, we embarked on an outreach initiative that started with a symposium of community banks that we held in Washington, followed by outreach sessions around the country in each of our regional offices, hosted by our Chairmen, and we specifically asked institutions, you know, what were the things that created burden for them. They talked about new regulations, they talked about communication, and they talked about the examination process and ways that we could make it better. We took actions back in 2012 and 2013 on the feedback that we received from institutions and the feedback that we continue to receive. In particular, we streamlined our pre-exam planning process, the information that we ask institutions for before we go in, to make the examination process smoother once we get there. So we try to do as much work off-site as possible before we even show up, so that we go in with informed examiners ready to hit the ground running and limit the examination process.

We did not get specific feedback during that process that I recall about coordination with other regulators, but we do work on that at a local level with our State counterparts through our field supervisors as they go through examination planning. We have cooperative examination agreements that define who will examine the institution when.

Senator MERKLEY. Thank you. I am going to cut you off there. I think you have gotten to the core of the type of feedback loop that is so important. I am not sure, based on the feedback from my community banks, that it cannot be further improved on, but I gather you are continuing to hold the regional roundtables to try to get to the heart of this. And I appreciate that.

Another piece of the commentary is that rules that were designed really for big banks engaged in market making, banks that are engaged in wealth management and investments in wealth management funds, banks that have trading going on in the derivative markets, these rules become part of an examination process that just is a burden and misappropriately applied.

Is that a problem? And is it getting addressed? Yes, as the primary regulator of small community banks.

Ms. EBERLEY. Absolutely. I would say first that all of our examiners are trained as community bank examiners, so they are aware of the rules that apply to community banks. We have a number of controls in place to prevent any kind of trickle-down, if the concern is that the rules that are meant for the largest banks are being applied to smaller banks.

First is just the good education of our staff. We have a very professional and experienced examination staff.

Second, every report of examination goes through at least one level of review by a case manager in our regional office, who, again, is trained in all of our rules and regulations and what applies to which institutions.

Third, we audit our regional office adherence to policy on a regular basis to ensure that we are being consistent across the country. And we stress communication at all levels that if institutions have any concerns, that they bring them up early in the examination process so that we can resolve them.

Senator MERKLEY. Thank you. In short, you are saying that that really is not an issue for the things you are doing, and I am sure that will lead to further discussion of that.

Then, finally, the feedback is—and this was referred to, I believe, by Senator Warner—that even when formal requirements do not exist, the regulators in the examinations are often saying, "Well, you must do X." And it is, like, "Well, why is that?" "Well, it is a best practice, and so you really do not legally have to do it, but we expect you to do it." And that trickle of best practices from large institutions down is creating challenges and problems that may be, again, inappropriately suited to small community banks. Is that an area you feel like you have adequately addressed?

Mr. BLAND. Senator, I can jump in here. Absolutely, this whole notion of best practices is something that we have to guard against, because some of the intentions are good, but the net effect, as you say, could be bad in terms of the institutions. And so one of the things we do is make sure we emphasize a matter requiring attention, which is an identified issue that the banks need to address, versus a best practice or a recommendation. Most recently, we updated our guidance to be very clear about what our examiners communicate, the things that have to be done because they are impacting the bank versus those things that are nice-to-do's. And so that is one of the things that we really have to focus on.

But one of the keys that is really at this is explaining the why to bankers. Why are we asking them to do this? And then what will be the tangible benefit of acting on whatever our recommendation is?

Senator MERKLEY. Thank you. My time is up, but I appreciate the feedback. Thanks.

Senator TOOMEY. Thank you, and I will claim my time at this point.

I would like to submit for the record a letter that I received from Comptroller Curry that contained a number of suggested reforms that I appreciate very much. Hearing no objection, I will submit that to the record.

Second, I want to make a brief editorial comment, if I could. I just want to underscore how frequently we had sometimes several hundred new bank charters issued in a given year across this country, not at all unusual to have 100, 200 new charters in a year. To go for 6 years with only two new charters, I have to say I find it wildly implausible to think that that is a reflection of a business cycle. In my view, it is very clearly a combination of a zero interest rate environment that has been engineered by the Fed and massive regulation that makes it impossible for people to see how they can have a surviving community bank. I say this as a person who helped launch a community bank in 2005. I was shocked by the amount of regulation that that bank was subject to then, and that was before Dodd-Frank. It has clearly gotten much, much worse, and it is impossible to believe that this is not related to the just virtually complete halt in a very, very important source of capital for small businesses and consumers.

Having said that, what I think is very good news today is what I really want to talk about, and that is that the OCC has, in my mind, quite constructively, suggested several significant reforms, and I would like to pursue a discussion about that, especially with Mr. Bland, because this is exactly the conversation I think we should have. What are the specific things we can do that will help the existing community banks and more community banks serve the credit needs of their community?

So, Mr. Bland, as you know and you mentioned in your testimony, one of the proposals you have suggested is to exempt community banks with assets of less than $10 billion from the Volcker rule, and I want to discuss that a little bit. But let me first start by—is it your sense, is it generally true that banks of $10 billion and less engage in virtually none or a de minimis amount of the activities meant to be precluded by the Volcker rule?

Mr. BLAND. Senator Toomey, that is correct. Our assessment around this area has shown that a lot of the activities that most community banks engage in is not under the purpose of the proposed rule. And, therefore, to require the compliance effort to make that determination seems costly compared to the actual activities that they have. And so that is where our view is on that.

And then even if institutions were involved in activities that would follow the rule, the extent of those activities are not significant relative to larger institutions. And so the realization of looking at institutions around the $10 billion and under mark did not seem to be the intent of the legislation. So that is pretty much the bedrock of our proposal.

Senator TOOMEY. And the reality is that these small banks have to spend a fair amount of time and energy and resources simply proving that they do not do what they have never done. Is that fair?

Mr. BLAND. That is correct. And, Senator Toomey, our thought is we can use the supervisory process to make assessments of whether or not those types of activities pose risks that we need to address.

Senator TOOMEY. So I would like to ask Ms. Eberley and Ms. Hunter just briefly, are you open to pursuing a reform such as what has been proposed by the OCC?

Ms. HUNTER. Well, speaking for the Federal Reserve, I know Governor Tarullo, in testimony and in speeches, has voiced support for the proposal for exactly the reasons that Mr. Bland identified. Community banks do have some activities that are covered by the Volcker rule, but the risks are not nearly as great as for the largest institutions and it can be managed in the supervisory process.

Senator TOOMEY. Thank you.

Ms. Eberley.

Ms. EBERLEY. We would estimate that very few of the banks, if any, that we supervise are engaged in activities covered by Volcker, but we have not taken an agency position.

Senator TOOMEY. Well, I would encourage you to consider this seriously. I think it is a very constructive proposal.

The last point I would make is, Mr. Bland, would you agree that there is nothing magical about the $10 billion figure? In other words, there is nothing intrinsic about one incremental dollar above that that suddenly gives rise to the activities?

Mr. BLAND. I would agree with that.

Senator TOOMEY. OK. The second thing I want to touch on was you have also suggested that banks with up to $750 million in assets be examined every 18 months rather than every 12 months. Now, isn't it true that the size of the banks is not the only criteria that would determine whether they get that little bit of relief from the frequency of these reviews?

Mr. BLAND. Yes, the primary driver is well managed, and the ability of these banks in terms of the risks, but their proven performance. And really one of the major emphases here is for us to divert our attention to less well managed institutions, so it is a matter of devoting our resources, but also to lessen the burden on those banks that are performing well and that are managing themselves properly.

Senator TOOMEY. I think that is a very constructive approach.

Again, Ms. Eberley and Ms. Hunter, just briefly, because I am out of time, have you considered this? And are you open to this type of reform as well?

Ms. EBERLEY. We indicated our support in our opening statement.

Senator TOOMEY. OK.

Ms. HUNTER. Yes, and I think this is also a suggestion that OCC are looking at. One point I would make is we also hear proposals about cutting back on Call Report reporting, and that combined with extending of frequency or somehow reducing— on-site presence, there is a tradeoff there. We could use the reported information to monitor risks, which would allow us to feel comfortable extending exam frequency for certain institutions.

Senator TOOMEY. Thank you. My time has expired.

Senator Warren.

Senator WARREN. Thank you, Mr. Chairman

Our community banks and credit unions play a unique and critical role in the market for financial services, and we must ensure that they can continue to do that in the years ahead. These small institutions clearly do not pose the same kinds of risks as the biggest banks, and our regulation and supervision of these institutions should reflect that.

The good news is that Dodd-Frank does reflect that basic principle. It exempts community banks and credit unions from many of its rules, and for the others it almost always gives regulators the discretion to tailor their approach based on the size and business model of the institution.

So when Members of Congress start talking about rolling back regulations in the name of community banks, I want to be sure that it is really about helping community banks and not about helping their much larger competitors.

I want to start with this: Ms. Hunter, in your testimony you note that the Fed defines "community banking organizations" as those with under $10 billion in assets. Is that right?

Ms. HUNTER. Yes, that is true.

Senator WARREN. Good. And, Mr. Bland, I us that the OCC's definition of community banks looks at a few factors in addition to asset size, but under the OCC's definition, what percentage of community banks have under $10 billion in assets?

Mr. BLAND. Senator Warren, we have about 85 percent of our banks are less than $10 billion.

Senator WARREN. OK. And about what percent are under $1 billion in assets?

Mr. BLAND. Boy, that is a good test for me. We have 1,400 banks under $1 billion. We supervise a total of 1,600, so that is really in the higher 80s.

Senator WARREN. So it is going to be in the higher 80s. So nearly all of the banks that you are supervising, community banks are going to be under $1 billion, much less under $10 billion.

Mr. BLAND. That is correct.

Senator WARREN. And, finally, Ms. Eberley, I know that the FDIC also defines community banks by examining a few different factors in addition to size, but I have the same question for you. Under FDIC definition, what percentage of community banks are under about $10 billion?

Ms. EBERLEY. Using our definition, 94 percent of the banks under $10 billion meet our definition. A couple over $10 billion meet it.

Senator WARREN. OK. So the banks—you have got a few that are under $10 billion that do not meet the definition of community banks.

Ms. EBERLEY. That is correct.

Senator WARREN. But your community banks, the ones that do meet the definition, are nearly all concentrated under $100 billion. You said all but a few, I think.

Ms. EBERLEY. Yes, yes.

Senator WARREN. And how many under $1 billion, that is, way under $10 billion?

Ms. EBERLEY. That is 90 percent of institutions.

Senator WARREN. OK. Thank you. So it sounds to me like the consensus from our Federal regulators is that, out of the several thousand community banks out there, nearly every single one has under $10 billion in assets and most are under $1 billion in assets. There are a lot of bills out there that are being promoted as helping community banks, but I want to look just a little bit closer at who they will actually help, and here is an example.

Under current law, banks with less than $10 billion in assets are completely exempted from the examination and reporting requirements of the Consumer Financial Protection Bureau. A bill introduced in the last Congress would have raised that exemption threshold from $10 billion to $50 billion. By raising that exemption threshold, would that bill benefit any of the 99 percent of community banks that are under $10 billion in assets? Anyone?

[Witnesses shaking heads.]

Senator WARREN. No? OK. I will take that as a no.

In fact, given that the banks between $10 billion and $50 billion in assets directly compete with the community banks in many communities, would not a bill that raises the Consumer Financial Protection Bureau threshold to $50 billion actually hurt community banks by helping their competitors? Anyone? In other words, it just adds more competition against what we define as community banks.

So I just think that 6 years ago—we need to focus on the fact that 6 years ago we suffered through the worst financial crisis in generations, one that caused millions of families to lose their homes, their jobs, their retirement savings, and that forced taxpayers to bail out the biggest banks. We put in new rules to try to rein in the biggest financial institutions. It is important that our community banks and credit unions thrive, but rolling back important protections to help the biggest banks just puts community banks at a greater disadvantage.

The big banks are going to keep using the small banks as cover for their special rollbacks. That is what they did before the crisis, and that is what they have been doing after the crisis. We should not fall for that trick.

Thank you, Mr. Chairman.

Chairman SHELBY. [Presiding.] Senator Moran.

Senator MORAN. Mr. Chairman, good morning. Thank you all—way over here. I have a profile view of you this year. Thank you all for being back. I was speculating with my staff about the number of times we have had hearings in this room. Many of you have participated before. We are guessing three or four times a year we have examined the issue of the regulation of community banks.

My question initially is: What has changed? I have been a Member of this Committee, now I am beginning my fifth year. My position at the end of the table does not demonstrate that, but I have been here for 5 years.

[Laughter.]

Senator MORAN. What have we eliminated, what have we improved in the issue of community banks? And somewhat in response to the Senator from Massachusetts, I am not particularly interested in the banks. I am interested in the people they lend money to. And while we talk about $1 billion deposit banks, what I am thinking about is banks that are less than $100 million. That dominates our State. I have made the case, and perhaps this sounds a bit back home, but economic development can be whether or not there is a grocery store in many of the communities I represent, and that translates in today's hearing in my world is if there is not a community bank that cares about the community, that is willing to take a risk because it matters to that community that there is a grocery store, and taking that risk they believe they are going to get a return on their investment, if they are wrong, it does not create a systemic problem for the country's financial circumstances.

What are we doing to take care of those folks who are willing to have relationship banking because they are so connected to their community? My question about the hearings is: Has anything changed in the 5 years that we have had 20 hearings on this topic? Have we made any progress? Or are my bankers just folks who like to complain and come to my town hall meetings and tell me stories that really they should not worry about?

I asked this question in a previous hearing. What have you ever heard in one of these hearings that you have taken back and there has been a consequence to what you heard at a hearing and said, "Let us solve this problem"?

Ms. HUNTER. Well, I will go ahead and start off.

Senator MORAN. Thank you.

Ms. HUNTER. Especially since I spent a considerable amount of time in your State earlier in my career.

So some things have changed and some have not. I would think that one thing that has changed, certainly we have been through a very significant economic cycle. That always changes the environment with which examiners in particular are looking at banks and assessing the risks that they have. So that will change from year to year, the intensity of examination activity or discussions.

I think to some of the earlier discussion, some of the more recent regulatory changes, there have been some new requirements for community banks, but by far the vast majority, the most significant changes are falling on the larger institutions. That is hard to absorb, though, when they are struggling to absorb additional compliance activities or adapt to new rules.

One thing I would say is that when we come to these hearings, we do take it very seriously. I know at the Federal Reserve—and I am confident my counterparts would say the same thing—we look very carefully at our procedures, at our examinations, and the messages that we give to our examiners, we review across districts, across examination offices to see are we being consistent, are we responding to concerns that we hear from bankers. And sometimes we will find, yes, we are asking for things that are beyond what we had initially envisioned might be necessary and we will invest more in training to deal with that through changing our supervisory process.

Senator MORAN. How much of the problems that a banker or a bank faces in the regulatory environment comes from decisions made by the local office, the local examiner? Is that an issue in which the applications are applied in a different manner in a particular region or community versus what decisions you make and what guidelines you put in place for those exams?

Ms. HUNTER. Well, I will start again. The way our process works is we delegate supervision and responsibility to the Reserve Banks, which means if there is an examination or supervision of a well-managed institution, the decisions are made locally. Where we have more involvement from Washington is when I would think the industry would want us to have greater consistency, decisions around issues about if we are restricting capital distributions or some other kind of important factor that might come up through the supervisory process. Here being consistent across districts is quite important, and that is when we will try to bring those issues to Washington.

Senator MORAN. I remember the last time we had this conversation, you played the Kansas card with me. It always works.

[Laughter.]

Senator MORAN. It is difficult to chastise anybody who spent time in our State.

Just a couple of other observations, and I will conclude. I do not know that there is a question here, but my point in this part of the conversation is I want these hearings to make a difference, and in part we need to know what it is legislatively by law needs to be changed. But I hope that this is not just something that has become a routine in hearing us espouse the challenge we face.

One of those challenges—and it is going to change again, I do not know whether for the good or the bad, on August 1st in regard to real estate mortgages. I have had at least a dozen community bankers tell me they no longer make real estate loans to people who want to buy a home in a town of 2,000 people. What an amazing development. And the only reason they say they do not do it is the nature of the regulations, the uncertainty of whether they are complying, and the consequences if they are not. And to live in a community of 2,000 or 3,000 people and have your hometown bank say, "I am sorry, I cannot make you a loan because I am fearful that I might not cross the 't' and dot the 'I,'" that is a pretty damning thing, in my view, for the future of rural America.

I just was going to point out that Senator Tester and I will once again package—we are drafting a small lending credit union/bank piece of legislation, and I am hoping that in this new Congress it has the opportunity to be heard in this Committee and action taken and be considered on the Senate floor, and I look forward to working with you to see that we get the right framework in place.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Brown.

Senator BROWN. Thank you for one more question, Mr. Chairman, on the second round.

I want to first say I agree with Senator Warren and Senator Moran on the whole idea of what we should do to help the smallest banks. As I said earlier, in my State, in Ohio, a State of almost 12 million people, 80 percent of the community banks are very small, under $500 million in total assets. So we know who we are aiming at here.

This is a question for the four of you. Sorry again to leave you out, Ms. Franks. At the hearing last fall, I asked you to describe and define community banks and small credit unions. Your answers were helpful as we thought about regulatory relief and generally identified the smallest institutions serving local areas with a very simple business model. One banker told me that banking should be boring, and he has been very successful at growing a very small bank into a several-billion-dollar community bank.

As we consider proposals to provide regulatory relief to these smaller institutions, I am reminded of an exchange I had within then-Chairman Bernanke a couple years ago. He indicated that regulators should do whatever we need to do to make sure the financial system—"that our financial system is safe." I agree with that sentiment. I want to ensure that any steps taken by you all or by us to provide regulatory relief first and foremost keep the system safe. I know your comments play into that. I know you believe that it is very important.

So this question is for the entire panel. I will start this time with you, Mr. Fazio, and work to your right, to my left. Is there a particular size of institution that you believe would benefit the most from regulatory relief? What should we know about the causes and failures of small institutions as we consider these regulatory relief proposals? What analysis are you doing on Congress' regulatory relief proposals to ensure that the relief is targeted to those institutions that need it most and that those proposals do not threaten safety and soundness or do not strip away consumer protections, regardless of the size of the banks.

So, Mr. Fazio, if you would take that sort of mix of four questions and just give us thoughts as specific as you can, each of you.

Mr. FAZIO. Well, I would start with the fact that under the Regulatory Flexibility Act analysis, we have historically defined small as $50 million or less. We had increased that several-fold in January of 2013 when the NCUA Board raised that definition to $50 million. The board next week is going to take up that new definition and potentially raise it to as high as $100 million. Eighty percent of all credit unions are $100 million or less in assets, so that would exempt—or that would provide special analysis that we would do in considering exempting or scaling expectations for safety and soundness and other regulatory provisions in the rules we make. So I think that is mainly how we think about a smaller entity in our context.

What we try to do, as I had indicated, is scale and target our regulations at the institutions that have the most risk and that have the size and complexity to deal with it. We do take every opportunity to tailor our processes and to understand the costs and the benefits as it relates to credit unions when we need to do safety and soundness-based regulations to support that. And so we have done a lot of things to try to help along those areas. A big part of it—and we have heard about it today a lot at the hearing—is the exam process itself and the supervision process, and we have made significant strides in recent years to tailor our exam process to help small entities, to reduce the burden on them, to support them. We have an office that is dedicated to supporting small credit unions. It is called the Office of Small Credit Union Initiatives. We provide a lot of training and consulting, partnership opportunities. So we are doing a lot of that.

We would be mindful of any legislation going forward that would preserve the ability for us to continue to flexibly approach cost-benefit analyses in the way we approach targeting and scaling our regulations, so that would be our thought process, at least in terms of potential future legislation.

Senator BROWN. Thank you.

Mr. Bland.

Mr. BLAND. Senator Brown, when you look at the community banks the OCC supervises, 1,400 of our 1,600 are less than $1 billion. So that is what our primary focus is around.

But I would also caution all of us, though, when you look at what is happening in the industry today, with technology in particular, it is changing the size. But also we have to be careful of prescribing certain limits that also then prescribes what a bank can do under those limits, because we run the risk of threatening innovation in the industry. And so at the OCC we do use asset size as a pointer, but then we try to delve deeper into what activities and complexity that those institutions are involved in. Coming out of the last crisis, we had institutions that were very small doing very complicated things that required them to have the requisite systems.

For the most part, the institutions that we supervise are less than $1 billion. But we are also trying to challenge ourselves as we contemplate rules around what they do, not so much what their size is.

Senator BROWN. Thank you.

Ms. Hunter.

Ms. HUNTER. Your question is who would benefit most and kind of linking it back to causes of failure. For small banks the cause of failure is generally bad loans and not enough capital to absorb the losses, and that is something we have seen over decades. So when you think about small banks, making sure the safety and soundness elements, the capital, is sufficient, that is obviously important.

In terms of who would benefit, I am very interested to hear what the bankers have to tell us when we do the EGRPRA outreach session focused on rural institutions. I think those banks are different from even the suburban community banks that might be just under $10 billion, and so I am hoping that we will hear something that might be useful and how we can address their particular needs.

Senator BROWN. Thank you.

Ms. Eberley.

Ms. EBERLEY. The definition we use is also not asset based. We look at the activities of the institution, relationship-based lending funded by core deposits in a relatively tight geographic market. So they have local knowledge and local experience and face-to-face work with their customers.

In terms of the lessons learned from the crisis that we should keep in mind as we think about regulatory relief, I will draw back a little bit from the last crisis as well. You know, there is no substitute for an on-site examination of an institution—the time that we spend face-to-face with management and understanding the bank's activities and risks and what they are doing. To Toney's point about understanding the risk profile of the institution, you can be a very small institution engaged in very risky activities. Quality and quantity of capital are important; as is recognizing loss timely. A lot of institutions at the beginning of the crisis did not, and that prevented them from being able to raise capital.

Concentrations have to be managed. Early supervisory intervention makes a difference. Institutions where there was early supervisory intervention and they heeded the recommendations fared better than those who did not. And rapid growth funded by noncore deposits creates a situation where there is really no franchise value and institutions struggle to find investors when they need capital down the road because they have not created a franchise.

So those are some of the key lessons that we would look at when we are looking at regulatory relief proposals and also just looking back to what was the original reason for the rule and do any of these things still play today.

Senator BROWN. Thank you. Thank you all.

Chairman SHELBY. Thank you, Senator Brown.

A 2012 study found that of 192 Dodd-Frank rulemakings done through 2012, 74 percent contain no cost-benefit analysis or no quantitative analysis. This means that as of 2012 we had no idea how much three-fourths of Dodd-Frank rules would cost to comply with.

Assuming this is true—and I think the study showed it—does this concern you, Ms. Eberley?

Ms. EBERLEY. It would not be in conformance with the way that we approach rulemaking, which is we certainly do work to do cost-benefit analysis and consider the costs, benefits, and alternatives.

Chairman SHELBY. Sure. Does that concern you, does it concern the Federal Reserve?

Ms. HUNTER. I would add to Ms. Eberley's comment, in making rules we do consider costs and benefits and do quantitative impact studies on a number of issues related to rulemaking. So I know that that analysis underlies the development of the rule.

Chairman SHELBY. Mr. Bland.

Mr. BLAND. Chairman Shelby——

Chairman SHELBY. Is that important? Is cost-benefit analysis important?

Mr. BLAND. It is important.

Chairman SHELBY. OK.

Mr. BLAND. And, you know, with the regulations under Dodd-Frank that the OCC is responsible for, as I mentioned earlier, we do an economic impact analysis, and that is part of our process, and it is really embedded in our rulemaking process.

Chairman SHELBY. Mr. Fazio, is cost-benefit analysis important to the viability of the credit unions, too many regulations not thought out?

Mr. FAZIO. Yes, sir, that is important, and we, again, try to articulate those costs and analyze those costs where we can.

Chairman SHELBY. Sure. Ms. Franks.

Ms. FRANKS. We believe a cost-benefit analysis is beneficial. We do that in Arkansas, so that is something that we certainly take in mind.

Chairman SHELBY. Ms. Hunter, you said earlier that it is easy to calculate the cost of regulations but not the benefits. That might be true. I do not know. But maybe more work needs to be done.

In 2011, the General Accounting Office found that Federal financial regulators' economic analysis for Dodd-Frank "falls short" of what could be done. How do you respond to that? Do you think that you need to do more? A lot of us think you need to do more——

Ms. HUNTER. Well, if I said it was easy, I would try to qualify that by saying it is easier when it is focused in on specific institutions.

Chairman SHELBY. "Easy" or "easier"?

Ms. HUNTER. Easier to identify costs that affect particular institutions. And so along those lines, I would add that, yes, we very much value information about costs. When we put rules out for comment, the most valuable ones are when institutions tell us, "Here is a real impact. Here is a cost I am going to have to have. Here is the impact on perhaps my need to change computer systems in order to implement what you propose." We respond to those and incorporate those into the final rules, and I think our capital rules are a good example where we took the feedback from the banks about the cost of implementation and made adjustments.

So we do recognize that more information on cost is valuable. I hope that as we go through the EGRPRA process we will hear more about it, but certainly in any comment period, the more specific information we get from the institutions, the better.

Chairman SHELBY. A lot of us that advocate cost-benefit analysis for all regulations, not just for banks, but I have been pushing that for years, it defies logic not to do it. But we are not saying to you as bank regulators loosen the regulations and do not worry about safety and soundness. We do worry about that. You have got to do that. But do the whole thing and do it right, because I know from being up here on this Committee 29 years, I can tell you that a lot of those regulations make no sense and they ought to be weighed in the balance.

Senator Cotton.

Senator COTTON. Thank you.

Chairman SHELBY. We have one of your Arkansans here.

Senator COTTON. I know that. Very proud and excited. I apologize for being a little late. I was presiding over the Senate, which I think is the Senate's version of paying your dues, right?

Thank you all very much for your time. I want to touch on the mortgage servicing business, a specific concern I have about the mortgage servicing business being driven into a largely unregulated shadow nonbank system. Some reports I have seen suggest that you have seen at least a doubling if not a tripling of nonbank companies moving into the mortgage servicing business. A lot of banks are divesting of this business. And I wanted to ask, first, why you think this is, and maybe we can start with Ms. Eberley.

Ms. EBERLEY. Not a lot of the banks that we supervise have significant amounts of mortgage servicing businesses. By and large, community banks do very small amounts, and they are keeping it.

Senator COTTON. Ms. Hunter.

Ms. HUNTER. The mortgage servicing industry certainly has undergone significant changes in recent years, so we are noting that there is some shift away from the larger banking organizations, but at this point I do not know that I could add any more insight on that.

Mr. BLAND. Senator Cotton, I would share what has been said also, but I also would say that continuing innovation and speed of delivery and technology is making a big difference in who can provide the services at a more effective cost, and that has been a big driver as well.

Mr. FAZIO. Most credit unions portfolio their mortgages, and they service them. Not many credit unions hold mortgage servicing assets on their books. A few do. It is a very small percentage, and we have not seen any real trends to move those outside of the credit union portfolio.

Ms. FRANKS. We feel the capital requirements that are causing these mortgage servicing rights to be taken to other sources will cause relationship lending to be dampened, and we would like to see our banks be able to continue to service those mortgages that they produce. State regulators, many State regulators—I do not, but many State regulators do regulate those mortgage service companies, and I know that they are looking at prudential standards for those companies.

Senator COTTON. And, Ms. Franks, you are talking about the regulations implementing the Basel III capital requirements?

Ms. FRANKS. Right.

Senator COTTON. I have to say that I tend to agree with your assessment, Ms. Franks, and that is not just chauvinism for Arkansas. But this is, you know, what I have heard and what I have seen in other studies. So, you know, one question that I would like to ask is: Was there any study in particular on the assets that the regulations implementing the capital requirements have on the mortgage servicing business, not the general study on capital requirements but specifically the impact it could have on the mortgage servicing business, especially of small and midsize banks?

Ms. EBERLEY. We absolutely looked at it for community institutions in response to the comments we received as part of the capital rulemaking. And as I noted, there are very few community institutions that are engaged in mortgage servicing to a level that would have been impacted by the new capital rules.

Senator COTTON. Ms. Hunter.

Ms. HUNTER. Yes, I would only add the goal of the capital rules was to make the capital regime more resilient, and as I understand it, in going through the comment process, we looked at various classes of assets. Those assets that proved to be less liquid in the financial crisis and when institutions needed more liquidity in those assets, those tended not to get the more relaxed treatment than some of the other assets perhaps received in the final rule.

Senator COTTON. Well, I mean, I appreciate the goal. I just feel that this may be another instance in Dodd-Frank and its implementation and the overall regulatory environment we have seen over the last few years where we have actually been aiming at one goal and maybe having the opposite result, driving activity out of the regulated banking and credit union sphere and into nonbank businesses. To me it seems like this is a problem for at least two reasons. One, for community banks in particular, especially in a State like Arkansas—and I know States like Alabama and Tennessee and other States represented here—that is a good business, provides a good margin, has relatively safe assets; but, two, it is also very bad for the people we serve, the consumers of those banks. You know, rather than dealing with a small bank in a place like Yell County, Arkansas, or, for that matter, in Pulaski County, Arkansas, which is small by Washington standards, you know, they may end up now dealing with esoteric and obscure nonbank entities that are far away, where they have less recourse and less protections than they would if they were dealing with their community banks and their credit unions.

My time has expired. I want to thank you all for your time, and, Ms. Franks, thank you in particular for increasing the number of Arkansans we have in Washington today.

Chairman SHELBY. Senator Corker.

Senator CORKER. Well, thank you, Mr. Chairman. I apologize for being in a closed session for the last 2½ hours regarding Iran, and I know that the key questions that I had hoped to ask have been asked by others. I just came to say to you I appreciate you having this hearing and for these distinguished witnesses being here.

I think it is really evident that while Dodd-Frank was put in place to attempt to deal with financial stability and some of the risks that especially the larger institutions in America posed and to try to cause them to not be such a threat, if you will, to our Nation's economy, there is no question that what has happened in the process is that our community banks have been tremendously affected. We are losing community banks left and right. The asset base that they have to deal with relative to compliance is causing them to be noncompetitive. And I look forward to working with you to alleviate some of the restrictions that have been put in place, unintentionally I think, on them that are causing them to not be able to serve the purpose that they serve in the communities that we know thrive from having active community bankers doing what they are doing.

So I thank you. I look forward to working with you. I do have some detailed questions that I will send through QFRs, and I look forward to additional hearings covering this same topic.

Chairman SHELBY. Thank you. Thank you, Senator Corker.

I want to follow up on Senator Moran, and others here alluded to this today, but Senator Moran was specific. A small bank, you know, we have millions—as all of you know, millions and millions of people living in small communities in this country. And he was talking about a small bank's inability to make a "plain vanilla" blue-chip loan on a piece of real estate because of regulations. Do you all understand that? Nobody wants a failing institution or, you know, a troubled institution. But should not banks have clarity on what they can do to make it work? Because, you know, we have a banking system because we have a free market economy. We want to keep it that way. We want to have access to capital. We want those debts paid back. We understand all that. But isn't there some way for regulators to solve some of those problems, at least try to? Is it a question of capital? Is it a question of management? Or is it a problem of overregulation? I do not know.

Ms. EBERLEY. We have shared the concerns that we have heard from community bankers, especially those that are in what they think are rural communities but maybe did not meet the definition of rural under the CFPB's rules. I think the CFPB has tried to be responsive to that. They have put out a Notice of Proposed Rulemaking expanding the definition of rural and small bank. The expanded rural definition picks up about 1,700 more institutions, bringing the total to a little over 4,000, I believe. And the small bank exemption expansion will pick up about 700 additional institutions.

We do think that with those proposals it will make it easier for banks in rural communities to comply with the ability-to-repay rules and make mortgages.

Chairman SHELBY. The Federal Reserve, do you have——

Ms. HUNTER. Yes, I would add to that I think some of the issues we are hearing around the appraisal threshold and some of the appraisal issues, that may also be helpful for the kind of situation that you are describing. So we will continue to work on that as we move through the EGRPRA process.

Mr. BLAND. Chairman Shelby, I was going to say the areas you listed, I would say all of the above, and for different reasons. I think the new and the amount of regulations have had impact on institutions, and so to the extent there is relief, we need to give them that relief. And one of the things we are doing at the OCC is doing that assessment of laws and rules that are not necessary or should be modified.

For example, when the OTS was combined in the OCC, we are undertaking and still undertaking a review of all the regulations to make sure they are fair and balanced and consistent.

The other part about management, though, that you mentioned is very critical. With the complexity of the industry, you know, making sure you have the right skill sets, not only at the board level but at the management level, is key. But if they cannot acquire that, particularly rural banks, that is why our collaboration paper was emphasizing sharing of resources, which is for some institutions hard to do when they have been solely focused on going their own way. But it is important to look for opportunities to manage those costs, offload those costs, but also get the expertise you need so rural, urban—we are really stressing that as a good opportunity for institutions.

Chairman SHELBY. The credit unions?

Mr. FAZIO. In addition to what my colleagues have mentioned, I would say that one of the challenges, we have been in, again, a tremendous period of change, and one of the additional challenges is the uncertainty there, the market uncertainty. How will, for example, QM and non-QM loans price? How liquid will they be? What is the legal uncertainty? Do we have any court precedents yet, for example, on how that will be interpreted? So I think that lack of certainty creates challenges for our financial institutions in terms of the lending process, and we understand that. What we can do about it as regulators and what we try to do at NCUA is to provide, when it is within our authority to do so, clarity about how we will view it in the exam process and the supervision process. And we have published a lot of guidance on that to try to help credit unions understand the rules, the new rules, and how we will examine for them.

We also do a lot of training and outreach within institutions, especially the smaller ones who are serving in these rural communities, to help them understand those areas and to get training and to share best practices.

Chairman SHELBY. Ms. Franks, do you want to comment on behalf of the small banks?

Ms. FRANKS. I do, Senator. While we do recognize that the CFPB has made some improvements in these areas, we would like to see, as far as the State supervisors are concerned, that qualified mortgage—any mortgage loan that is held in portfolio would qualify under the QM rules, because when you have made a loan that you are holding in portfolio, you have already done the ability-to-repay analysis. So we would really like that to be something that is initiated. We feel like that would be an improvement in those areas.

Chairman SHELBY. Thank you.

On behalf of the Committee, I want to thank all of the witnesses today. We will be following up with each of your agencies as we begin consideration of regulatory relief here, and we want your input.

The record will remain open for the next 7 days for additional questions, statements, and other materials that any Member may wish to submit.

So thank you very much for your appearance today. The Committee is adjourned.

[Whereupon, at 12:07 p.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF SENATOR PATRICK J. TOOMEY

Mr. Chairman, I not only want to thank you for holding this hearing but I also want to take the opportunity to thank the panel of regulators for agreeing to appear before the Committee. The topic of regulatory relief for our community financial institutions is not new to the Members of this Committee. Our offices are frequented by small banks and credit unions who are struggling under a regulatory regime that hasn't been "right-sized" for them.

Opening an account or obtaining a loan at your local community bank is often the first exposure people have to the financial system. That experience used to be marked by exceptional service, personalized products, and an ongoing relationship that proved beneficial to both the customer and the banker. It really was like going to see George at Bailey Building and Loan for your first mortgage or a loan for your local business.

But over the years, as Washington attempted to deal with problems that were much bigger and which emanated from different parts of the financial system, our community financial institutions found themselves trying to navigate longer and longer regulations and a seemingly endless amount of red tape. While their larger brethren, for whom the regulations were targeted, at least had the advantage of scale economies to shoulder the cost, small banks not only had to comply with requirements that didn't suit them, but they also had little ability to pay for additional compliance.

While I am very frustrated with the current regulatory framework for our community financial institutions, I am encouraged by our regulators' willingness to appear today and address some of these issues head-on. I also want to commend Comptroller Tom Curry, and the staff at the Office of the Comptroller of the Currency, for attempting to be proactive in giving the right regulatory touch to our community banks. On December 5, 2014, Comptroller Curry sent me a letter and attached three legislative proposals that he recommend Congress act on to provide some relief to the institutions regulated by the OCC. Mr. Chairman, I'd like to submit that letter and those proposals for the record.

In short the OCC has proposed exempting banks with less than $10 billion in assets from the Volcker Rule, allowing banks with less than $750 million in assets be examined every 18 months as opposed to annually, and providing thrifts some additional flexibility in their charter in order to remain competitive in the marketplace. I look forward to exploring these proposals with the witnesses later in the hearing.

Our regulators have a tough job to do in promoting a safe and sound financial system. As Congress looks to better align the regulatory touch community financial institutions receive with the risks they pose to the greater financial system, I ask our regulators to be constructive partners in helping us identify those regulations that need to be revised and for them to implement the statutory changes Congress makes in a manner that is consistent with our intent.

I look forward to the panel's testimony and a robust discussion.

PREPARED STATEMENT OF DOREEN R. EBERLEY

DIRECTOR OF THE DIVISION OF RISK MANAGEMENT SUPERVISION, FEDERAL DEPOSIT INSURANCE CORPORATION

FEBRUARY 10, 2015

Chairman Shelby, Ranking Member Brown, and Members of the Committee, I appreciate the opportunity to testify on behalf of the Federal Deposit Insurance Corporation (FDIC) on regulatory relief for community banks. As the primary Federal regulator for the majority of community banks, the FDIC has a particular interest in understanding the challenges and opportunities they face.

My testimony will highlight the profile and key performance information for community banks. I then will discuss the current interagency review to identify outdated, unnecessary, or unduly burdensome regulations. Next, I will describe how the FDIC strives on an ongoing basis to implement regulations and our supervision program in a way that reflects differences in risk profile among the industry participants, while achieving our supervisory goals of a safe-and-sound banking system. Finally, I will touch on our continued work under our Community Bank Initiative to respond to requests we have received from community banks for technical assistance.

Community Bank Profile

Community banks provide traditional, relationship-based banking services to their communities, including many small towns and rural areas that would otherwise not have access to any physical banking services. Community banks (as defined in FDIC research[1]) make up 93 percent of all banks in the U.S.—a higher percentage than at any time going back to at least 1984. While they hold just 14 percent of all banking assets, community banks account for about 45 percent of all of the small loans to businesses and farms made by insured institutions. Although 448 community banks failed during the recent financial crisis, the vast majority did not. Institutions that stuck to their core expertise weathered the crisis and are now performing well. The highest rates of failure were observed among noncommunity banks and among community banks that departed from the traditional model and tried to grow rapidly with risky assets often funded by volatile noncore and often nonlocal brokered deposits.

The latest available community bank data,[2] as of September 30, 2014, showed continued improvement in the overall financial condition of community banks and the industry as a whole. Further, the profitability gap between community banks and larger, noncommunity banks has narrowed in recent quarters. In the third quarter of 2014, community bank return on assets (ROA) rose to 0.97 percent—the highest in more than 7 years, and just 6 basis points less than the ROA of noncommunity banks.

Community banks earned $4.9 billion during the quarter, an increase of 11 percent from a year ago. Higher net interest income, increased noninterest income, and lower provision expenses were the primary drivers of stronger earnings at community banks. A steepening of the Treasury yield curve in the year ending in September helped to lift the average community bank net interest margin (NIM) by 2 basis points from a year ago, even as the industry NIM was falling by 12 basis points. Close to 33 percent of the industry's annual growth in net interest income (up $3.2 billion) came from community banks. Meanwhile, community bank loan balances rose by 8 percent over the past year compared to 4.6 percent for the industry. Community banks reported growth in all major loan categories, including residential mortgages and loans to small businesses, and asset quality showed continued improvement with noncurrent loans down 20.3 percent from the third quarter of 2013.

EGRPRA Review and Progress to Date

The FDIC and other regulators are actively seeking input from the industry and the public on ways to reduce regulatory burden. *The Economic Growth and Regulatory Paperwork Reduction Act of 1996*[3] (EGRPRA) requires the Federal Financial Institutions Examination Council (FFIEC)[4], the FDIC, the Federal Reserve Board (FRB), and the Office of the Comptroller of the Currency (OCC) to review their regulations at least once every 10 years to identify any regulations that are outdated, unnecessary, or unduly burdensome. EGRPRA also requires the agencies to eliminate unnecessary regulations to the extent such action is appropriate. The second decennial EGRPRA review is in process with a required report due to Congress in 2016. The FDIC has developed a comprehensive plan for conducting its EGRPRA review that includes coordination with the other Federal banking agencies.[5]

As the primary Federal regulator for the majority of community banks, the FDIC is keenly aware of the impact that its regulatory requirements can have on smaller institutions, which operate with fewer staff and other resources than their larger counterparts. Therefore, the FDICs pays particular attention to the impact its regulations may have on smaller and rural institutions that serve areas that otherwise

[1] Our research is based on a definition of community banks that goes beyond asset size alone to account for each institution's lending and deposit gathering activities, as well as the limited geographic scope of operations that is characteristic of community banks.

[2] Community bank is defined as FDIC-insured commercial banks and savings institutions meeting the criteria for community banks that were developed for the FDIC's Community Banking Study, published in December, 2012: *http://fdic.gov/regulations/resources/cbi/report/cbi-full.pdf.*

[3] Public Law 104-208 (1996), codified at 12 U.S.C. §3311.

[4] The FFIEC is comprised of the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Consumer Financial Protection Bureau (CFPB) and the State Liaison Committee (SLC), which is comprised of representatives from the Conference of State Bank Supervisors (CSBS), the American Council of State Savings Supervisors (ACSSS), and the National Association of State Credit Union Supervisors (NASCUS).

[5] *http://www.fdic.gov/EGRPRA/*

would not have access to banking services, and the input community bankers provide regarding those impacts.

On June 4, 2014, the Federal banking agencies jointly published in the *Federal Register* the first of a series of requests for public comment on regulations. The first request for comment covered applications and reporting, powers and activities, and international operations. The comment period for this request closed on September 2, 2014, and 40 comments were received and are being reviewed. The Agencies also are in the process of adopting for comment a second *Federal Register* notice, which was approved by the FDIC Board 3 weeks ago, addressing the banking operations, capital, and Community Reinvestment Act categories of regulations.

To date, the agencies also have held two regional outreach meetings in Los Angeles and in Dallas to get direct input as part of the EGRPRA review process. Presenters included bankers, community groups, and consumer groups, and the events have been attended by agency principals and senior agency staff. Additional meetings are currently scheduled for Boston on May 4, 2015; Chicago on October 19, 2015; and Washington, DC, on December 2, 2015. The agencies also plan to hold an outreach meeting focused on rural banks.

In response to what we heard in the first round of comments, the FDIC already has acted on regulatory relief suggestions where we could achieve rapid change. In November, we issued two Financial Institution Letters (FILs), our primary communication tool for policy and guidance to bankers.

The first FIL released questions and answers (Q&As) about the deposit insurance application process to aid applicants in developing proposals for Federal deposit insurance and to enhance the transparency of the application process. Some EGRPRA commenters—and others—indicated that there was some confusion about the FDIC's existing policies and suggested that a clarification of existing policies would be helpful. The Q&As address four distinct topics: the purpose and benefits of prefiling meetings, processing timelines, initial capitalization requirements, and business plan requirements.

The second FIL addressed new procedures that eliminate or reduce the need to file applications by institutions wishing to conduct permissible activities through certain bank subsidiaries organized as limited liability companies, or LLCs, subject to some limited documentation standards. The prior procedures dated back to the time when the LLC structure was first permitted for bank subsidiaries. In the past 10 years, the FDIC processed over 2,200 applications relating to bank activities; the vast majority of these applications involved subsidiaries organized as LLCs. Commenters remarked, and we agreed, that an LLC is no longer a novel structure and does not create particular safety-and-soundness concerns. We are confident that the new procedures will result in a more streamlined process for the institutions we supervise—especially our community institutions—without compromising the FDIC's safety and soundness standards.

Several themes are emerging through the EGRPRA process that could affect community bankers, such as looking at whether laws and regulations based on longstanding thresholds should be changed—for example, dollar thresholds requiring an appraisal or a currency transaction report. Along these same lines, commenters have expressed an interest in decreasing the frequency of examinations set forth in statute, increasing the size of the institutions eligible for longer examination intervals, or both. Commenters also have asked that we ensure that supervisory expectations intended for large banks are not applied to community banks and that we have open and regular lines of communication with community bankers. We look forward to continuing to receive comments during the EGRPRA process and through the outreach sessions and we intend to carefully consider comments received. It is our intention to continue looking for ways to reduce or eliminate outdated or unnecessary requirements as we move forward with this review, rather than wait until the end of the EGRPRA process.

Tailored Supervisory Approach for Community Banks

The FDIC's supervision program promotes the safety-and-soundness of FDIC-supervised institutions, protects consumers' rights, and promotes community investment initiatives by FDIC-supervised institutions. The FDIC has long tailored its supervisory approach to the size, complexity, and risk profile of each institution. This approach is embedded throughout our supervisory program, which includes issuing rulemakings and guidance, and maintaining a highly trained and professional examiner cadre to conduct periodic, on-site examinations and ongoing monitoring.

Rulemakings and Guidance

The FDIC considers the size, complexity, and risk profile of institutions during the rulemaking and supervisory guidance development processes and on an ongoing basis through feedback we receive from community bankers and other stakeholders. Where possible, we scale our regulations and policies according to these factors. The FDIC's policy statement on the development and review of regulations includes a goal of minimizing regulatory burdens on the public and the banking industry. Additionally, all of our FILs have a prominent community bank applicability statement so community bankers can immediately determine whether the FIL is relevant to them.

A number of recent FDIC rulemakings implemented provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that were designed to benefit community institutions. For example, the assessment base for deposit insurance was changed from domestic deposits to average total assets minus average tangible equity, which shifted more of the deposit insurance assessment burden from smaller to larger institutions. As a result, aggregate premiums paid by institutions with less than $10 billion in assets declined by approximately one-third in the second quarter of 2011, primarily due to the assessment base change. Under the Dodd-Frank Act, the deposit insurance coverage limit was permanently increased to $250,000, which particularly benefits small businesses and other depositors of community institutions. The Dodd-Frank Act also increased the minimum reserve ratio for the Deposit Insurance Fund (DIF) from 1.15 percent to 1.35 percent, with the increase in the minimum target to be funded entirely by larger banks.

In addition to issuing rules to implement the Dodd-Frank Act provisions that benefit community banks, the FDIC also has taken into account the unique characteristics of community banks in its rulemaking to implement other important reforms to the financial system. For example, in adopting the implementing regulations for the Volcker Rule, the agencies recognized that, while the requirements of the implementing statute apply to all banking entities regardless of size, the activities covered are generally conducted by larger, more complex banks. Accordingly, the agencies designed the Volcker Rule to reduce the burden placed on banks that do not engage in proprietary trading activities or have only limited exposure to fund investments.

Under the Volcker Rule, a bank is exempt from all of the compliance program requirements, and all of the associated costs, if it limits its covered activities to those that are excluded from the definition of proprietary trading. This exemption applies to the vast majority of community banks. For community banks that are less than $10 billion in assets but do engage in activities covered by the Volcker Rule, compliance program requirements can be met by simply including references to the relevant portions of the rule within the banks' existing policies and procedures. This should significantly reduce the compliance burden on smaller banks that may engage in a limited amount of covered activities.

The FDIC and other bank regulators also considered the burden on community banks in adopting regulatory capital rules. The FDIC recognizes that a number of the more complex requirements of our capital rules are not necessary or suitable for community banks. As such, many aspects of the revised capital rules do not apply to community banks. For example, the new capital rules introduce a number of provisions aimed only at the large, internationally active banks. These provisions include the supplementary leverage ratio, the countercyclical capital buffer, and capital requirements for credit valuation adjustments and operational risk, to name a few. In addition, the revised capital rules contain large sections that do not apply to community banks. Most notably, the advanced approaches framework only applies to internationally active banks and the market risk rule only applies to banks with material trading operations.

Several areas of the proposed rule attracted significant comment and concerns from community bankers, namely, proposed changes to risk weightings for 1-to-4 family mortgages; the treatment of accumulated other comprehensive income (AOCI), trust preferred securities (TruPS) and mortgage servicing assets; and the applicability of the conservation buffer to banking organizations organized under Subchapter S of the Internal Revenue Service Tax Code. After considering those comments and taking into account other safety and soundness factors, the banking agencies did not adopt certain of the proposed changes that caused concerns for community banks in the final rule, namely mortgage risk weightings and the treatment of AOCI and TruPS.

Notwithstanding our belief that the applicability of the conservation buffer to all financial institutions was important to achieving the safety-and-soundness goal of higher capital, last July we issued a FIL to FDIC-supervised institutions describing how we would treat certain requests from S corporation institutions under the new capital rules. Many community banks are S corporation banks, and we issued this guidance because of feedback we heard from concerned S corporation banks and their shareholders. The FIL describes how the FDIC will consider requests from

FDIC-supervised S corporation banks to pay dividends to their shareholders to cover taxes on their pass-through share of bank earnings when those dividends are otherwise not permitted under the new capital rules. We informed FDIC-supervised banks that we would generally approve those requests for well-rated banks, barring any significant safety and soundness issues.

To assist bankers in complying with the revised capital rules, the FDIC conducted outreach and technical assistance designed specifically for community banks. In addition to the publication of a community bank guide and an informational video on the revised capital rules, FDIC staff conducted face-to-face informational sessions with bankers in each of the FDIC's six supervisory regions to discuss the revised capital rules most applicable to community banks.

Examination Program

The foundation of the FDIC's examination program is a highly trained and professional examiner cadre. Every FDIC examiner is initially trained as a community bank examiner through a rigorous 4-year program that teaches examination concepts, policies, and procedures. As a result, on the way to becoming commissioned examiners, they gain a thorough understanding of community banks. The vast majority of our field examiners in our 83 field offices nationwide are community bank examiners. These examiners live and work in the same communities served by the community banks they examine, ensuring that they are knowledgeable and experienced in local issues of importance to community bankers and can serve as a first line resource to bankers regarding supervisory expectations.

Our examiners conduct bank examinations using a risk-focused examination program, which tailors the supervisory approach to the size, complexity, and risk profile of each institution. Risk-focused examinations are based on core principles of safety and soundness, including risk identification and mitigation. Institutions with lower risk profiles, such as most community banks, are subject to less supervisory attention than those with elevated risk profiles. For example, well-managed banks engaged in traditional, noncomplex activities receive periodic, point-in-time safety and soundness and consumer protection examinations that are carried out over a few weeks, while the very largest FDIC-supervised institutions are subject to continuous safety-and-soundness supervision and ongoing examination carried out through targeted reviews during the course of an examination cycle.

Our examination cycle is also tailored to the size and risk posed by a bank. The Federal Deposit Insurance Act requires regular safety-and-soundness examinations of State nonmember banks at least once during each 12-month period. However, examination intervals can be extended to 18 months for well-run and well-rated institutions with total assets of less than $500 million. Most FDIC institutions have total assets less than $500 million. This longer cycle permits the FDIC to focus its resources on those segments of the industry that present the most immediate supervisory concern, while concomitantly reducing the regulatory burden on smaller, well-run institutions that do not pose an equivalent level of supervisory concern.

FDIC policy guides consumer compliance examination schedules, which also vary based on the institution's size, prior examination rating and risk profile. Community Reinvestment Act (CRA) examination schedules conform to the requirements of the Gramm-Leach-Bliley Act, which established the CRA examination cycle for most small institutions. The FDIC also uses different CRA examination procedures based upon the asset size of institutions. Those meeting the small and intermediate small asset-size threshold are not subject to the reporting requirements applicable to large banks and savings associations.

The FDIC utilizes off-site monitoring programs to supplement and guide the on-site examination process. Off-site monitoring programs can provide an early indication that an institution's risk profile may be changing. The FDIC has developed a number of off-site monitoring tools using key data from banks' quarterly Reports of Condition and Income, or Call Reports, to identify institutions that are experiencing rapid loan growth or reporting unusual levels or trends in problem loans, investment activities, funding strategies, earnings structure or capital levels that merit further review. Off-site monitoring also allows the FDIC to expand the examination cycle for certain lower-risk institutions, as described above.

Community Banking Initiative and Technical Assistance

FDIC Community Banking Study

Since late 2011, the FDIC has been engaged in a data-driven effort to identify and explore issues and questions about community banks. Initial findings were presented in a comprehensive FDIC Community Banking Study, published in December 2012. Our subsequent research has studied community bank consolidation, long-term developments in branch banking, the effects of rural depopulation on community banks, and the efforts of minority-owned and operated depository institutions to serve their communities. The FDIC's community bank research agenda remains active, and in 2015, we will be studying the challenges that face small, closely held banks, such as raising external capital and ensuring management succession.

New Community Bank Quarterly Banking Profile

Last year, the FDIC introduced a community bank section in the FDIC's Quarterly Banking Profile. The QBP, as it is commonly known, is a long-standing tool that the industry, regulators, policymakers, investors, analysts, consumers, and other stakeholders use as a report card on the banking industry. We launched the Community Bank QBP to ensure that community bank performance was not obscured in the overall industry picture because of their small size. The most recent analysis of that data was presented earlier in this testimony.

Community Bank Outreach and Technical Assistance

In 2009, the FDIC established its Advisory Committee on Community Banking to provide advice and guidance on a broad range of policy issues impacting small community banks and the local communities they serve. In February 2012, the FDIC sponsored a national conference to examine the unique role of community banks in our Nation's economy. Later in 2012, roundtable discussions were conducted in each of the FDIC's regions that focused on the financial and operational challenges and opportunities facing community banks, and the regulatory interaction process. Additional roundtable discussions were held in each region in 2013 and 2014.

In discussions with community bankers in these venues and through our routine outreach efforts, it became clear that community banks were concerned about keeping up with changing regulations and policy issues and were interested in assistance from us to stay informed. As a result, in 2013, the FDIC created a regulatory calendar that alerts stakeholders to critical information as well as comment and compliance deadlines relating to new or amended Federal banking laws, regulations and supervisory guidance. The calendar includes notices of proposed, interim and final rulemakings, and provides information about banker teleconferences and other important events related to changes in laws, regulations, and supervisory guidance.

In addition, in 2013, and based on community banker feedback, the FDIC restructured our preexamination process to better tailor examination activities to the unique risk profile of the individual institution. As part of this process, we developed and implemented an electronic preexamination planning tool to ensure consistency nationwide and to ensure that only those items that are necessary for the examination process are requested from each institution to minimize burden.

We also instituted a number of outreach and technical assistance efforts, including more than 20 training videos on complex topics of interest to community bankers. For example, in spring 2013, we issued six videos designed to provide new bank directors with information to prepare them for their fiduciary role in overseeing the bank. This was followed by the release of a virtual version of the FDIC's Directors' College Program that regional offices deliver throughout the year. We also have issued a series of videos, primarily targeted to bank officers and employees, providing more in-depth coverage of important supervisory topics with a focus on bank management's responsibilities.[6] We issued the latest technical assistance video (on the Consumer Finance Protection Bureau's loan originator compensation rule) just last month.

We also hosted banker call-ins on topics such as proposed new accounting rules, new mortgage rules, and Call Report changes. The FDIC offers a series of Deposit Insurance Coverage seminars for banking officers and employees.[7] These free seminars, which are offered nationwide, particularly benefit smaller institutions, which have limited training resources.

In June 2014, the FDIC mailed an Information Packet[8] to the chief executive officers (CEOs) of FDIC-supervised community banks containing resources and products developed as part of the FDIC's Community Banking Initiative, as well as documents describing our examination processes. In addition to an introductory letter to CEOs, the packet contained brochures highlighting the content of key resources and programs and a copy of the FDIC's Cyber Challenge simulation exercise. Cyber Challenge was designed to encourage community banks to discuss operational risk issues and the potential impact of information technology disruptions. The exercise

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[6] Technical Assistance Video Program: *https://www.fdic.gov/regulations/resources/director/video.html.*

[7] Deposit Insurance Coverage: Free Nationwide Seminars for Bank Officers and Employees (FIL-17-2014), dated April 18, 2014.

[8] See *http://www.fdic.gov/regulations/resources/cbi/infopackage.html.*

contained four videos that depict various operational disruptions and materials to facilitate discussion about how the bank would respond. Lists of reference materials where banks could obtain additional information were also included. All of these resources can be found on the *Directors' Resource Center,* available through the FDIC's Web site. [9]

At the local level, we have enhanced communication efforts by having our community bank examiners contact supervised institutions between examinations to discuss and clarify supervisory and regulatory changes and the overall risk profile of the institutions.

Going forward the FDIC intends to continue to be a resource for community banks regarding developing industry issues. One recent example involves Call Reports. We have received comments from institutions and others about the cost and burden of preparing Call Reports, and we have also heard comments about the benefits of Call Reports, including their aforementioned use in extending examination cycles and the transparency they bring to the industry for investors, bankers, consumers, analysts, and other stakeholders. Working through the Federal Financial Institutions Examination Council or FFIEC, we have engaged the industry in a dialogue about ways to improve Call Reports and the reporting process, and we will pursue several actions in the near term. For example, we have already conducted banker training calls regarding certain Call Report changes and plan to conduct additional calls going forward as needed. Additionally, we plan to propose certain burden-reducing changes in 2015 and implement a more robust process for bank agency users to justify retaining or adding items to the Call Report.

Another example is actions taken by the FDIC to raise awareness of cyber risks and to work with community banks to encourage practices to protect against cyberthreats. During 2014, the FDIC issued a list of free resources from which community banks could obtain cyberthreat information and assisted financial institutions in identifying and shutting down "phishing" Web sites that attempt to fraudulently obtain and use an individual's confidential personal or financial institution, This year, the FDIC will add additional videos to the Cyber Challenge simulation exercise and work as a member of the FFIEC to implement actions to enhance the effectiveness of cybersecurity-related supervisory programs, guidance, and examiner training. The FDIC will continue to work with community banks to address this and other emerging threats.

Conclusion

The FDIC will continue to pursue regulatory burden reduction for community banks, while preserving safety and soundness goals. Strong risk management practices and a strong capital base are fundamental to the long-term health of community banks and their ability to serve their local communities. Most community banks know how to manage the risks in their loan portfolios and have strong capital positions. And of course, community banks have a strong interest in retaining customers by treating them fairly. Serving the credit needs of their local communities, while managing the attendant credit risks, truly is the core expertise of many community banks.

Reports by the General Accounting Office and the FDIC's Office of Inspector General (OIG), [10] and our own Community Banking Study have shown that banks—even those with concentrated asset portfolios—with sound risk management practices and strong capital have been able to weather crises and remain strong. Institutions that did not survive, according to these reports, were those with weaker or more aggressive risk management approaches, including imprudent loan underwriting and rapid growth often financed by wholesale funds or brokered deposits. One of our IG reports also found that banks that heeded supervisory directives regarding risk management practices were more likely to survive.

We believe the evidence strongly supports the idea that the best way to preserve the long term health and vibrancy of community banks, and their ability to serve their local communities, is to ensure their core strength is preserved: strong capital, strong risk management and fair and appropriate dealings with their customers. We also believe our own supervision plays an important role in obtaining corrective action to address problems where this is needed, and that this also promotes the long-term health of community banks. This being said, we remain alert to the importance of achieving the fundamental objectives of safety-and-soundness and consumer protection in ways that do not involve needless complexity or expense. Going forward,

[9] See *https://www.fdic.gov/regulations/resources/director/*.

[10] Causes and Consequences of Recent Bank Failures (January 2013), GAO-13-71 and Comprehensive Study on the Impact of the Failure of Insured Depository Institutions (January 2013), EVAL-13-002.

we continue to look for ways to improve our supervisory processes and reduce regulatory burden on the industry. We also stand ready to provide technical assistance regarding proposals that seek to achieve the fundamental goals of safety-and-soundness and consumer protection in ways that are appropriately tailored for community banks.

PREPARED STATEMENT OF MARYANN F. HUNTER

DEPUTY DIRECTOR OF THE DIVISION OF BANKING SUPERVISION AND REGULATION, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEBRUARY 10, 2015

Introduction

Chairman Shelby, Ranking Member Brown, and other Members of the Committee, I appreciate the opportunity to testify on the important topic of community banks and the effects of regulatory burden on these institutions. Community banks are a critical component of our financial system and economy. Their deep ties to their local communities give them firsthand perspectives on the local economic landscape; they focus on customer relationships and often look beyond traditional credit factors to consider unique borrower characteristics when making credit decisions. Having begun my career more than 30 years ago as a community bank examiner at the Federal Reserve Bank of Kansas City and eventually becoming the officer in charge of bank supervision at the Reserve Bank, I have seen first hand how critical it is that we balance effective regulation and supervision to ensure safety and soundness of community banks, while also ensuring that undue burden does not constrain the capacity of these institutions to lend to the communities they serve. In my testimony, I will discuss measures taken by the Federal Reserve to ensure that regulations, policies, and supervisory activities do not place an undue burden on community banks.

The Federal Reserve supervises approximately 850 State-chartered community banks, the majority of which are small community banks with total assets of $1 billion or less, and which are members of the Federal Reserve System (referred to as State member banks).[1] In addition, the Federal Reserve supervises more than 4,400 bank holding companies and more than 300 savings and loan holding companies, most of which operate small community banks and thrifts.

The overall condition of community banks has improved significantly in the wake of the financial crisis. The number of banks on the Federal Deposit Insurance Corporation's "Problem List" fell from a peak of 888 at the end of first quarter 2011, to 329 at the end of third quarter 2014.[2] Despite that significant decline, the number of problem banks compares unfavorably with historical numbers of less than 100, on average, in the years prior to the crisis. Moreover, small community banks continue to experience considerable earnings pressure based on historically low net interest margins, and many report concerns about their prospects for continued growth and profitability.

Soliciting Views From Community Banks on Regulatory Burden

The Federal Reserve uses multiple channels to solicit the views of community banks on banking and economic topics, including regulatory burden. For instance, when a proposed rule or policy is issued to the public for comment, we gather information from banking organizations that assists us in assessing implementation complexity or cost, especially for the smallest institutions. The feedback received has been instrumental in helping us scale rules and policies to appropriately reflect the risks at these institutions without subjecting them to unnecessary burden. This was evident in the final capital guidelines that were issued in July 2013.[3] The Federal banking agencies' final rules reflected several changes to respond to comments and reduce the regulatory burden on community banks. As a result, many of the requirements that apply to larger banking organizations do not apply to community banks.

Also, in 2010, the Federal Reserve Board (the Board) formed the Community Depository Institutions Advisory Council (CDIAC) to provide input to the Board of Governors on the economy, lending conditions, and other issues of interest to com-

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[1] For supervisory purposes, the Federal Reserve uses the term "community banking organization" to describe a State member bank and/or holding company with $10 billion or less in total consolidated assets.

[2] See Federal Deposit Insurance Corporation, Quarterly Banking Profile, Third Quarter 2014, *www2.fdic.gov/qbp/2014sep/qbp.pdf.*

[3] *http://federalreserve.gov/newsevents/press/bcreg/20130702a.htm*

munity depository institutions.[4] CDIAC members are selected from representatives of banks, thrift institutions, and credit unions serving on local advisory councils at the 12 Federal Reserve Banks. One member of each of the Reserve Bank councils is selected to serve on the national CDIAC, which meets twice a year with the Board of Governors in Washington, DC, to discuss topics of interest to community depository institutions.

Additionally, in accordance with the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the Federal banking agencies have launched a review to identify banking regulations that are outdated, unnecessary, or unduly burdensome.[5] The comment period for the EGRPRA review for the first set of regulations ended early in September 2014, and the agencies plan to publish three additional *Federal Register* notices seeking comment over the next year and a half. The Federal Reserve and the other agencies have begun a series of outreach meetings with bankers, consumer groups, and other interested parties as part of the EGRPRA review.[6] The Federal Reserve and the other agencies conducted two outreach meetings, the second of which took place in Dallas last week. Additional outreach meetings are scheduled for the coming months, including one scheduled for this August focused on issues affecting rural institutions. The comments from the industry, consumer groups, and others have been very informative and will help the agencies in assessing regulatory burden.

A recurring theme from the EGRPRA outreach meetings thus far has been the question of whether the agencies could reevaluate the various thresholds and limits imposed in regulations that may constrain community banks and their lending activities. For example, bankers have asked the agencies to consider increasing the dollar threshold in the appraisal regulations for transactions below which an appraisal would not be required. Community bankers in rural areas have noted that it can be difficult to find an appraiser with knowledge about the local market at a reasonable fee, and raising the threshold would allow bankers to use a less-formal valuation of collateral for more loans. Some bankers at the EGRPRA meetings have suggested reviewing the statutorily mandated examination frequency for banks of various sizes and condition as a way to ease burden from frequent examinations. Other banks have commented on the requirements of some longstanding interagency guidance and suggested that some may now be outdated and warrant a fresh look and revision.

In order to better understand and respond to concerns raised by these institutions through the various channels, the Board has established a community and regional bank subcommittee of its Committee on Bank Supervision.[7] The governors on this subcommittee help the Board as a whole to weigh the costs associated with regulation against the safety-and-soundness benefits of new supervisory policies for smaller institutions. The subcommittee also meets with Federal Reserve staff to hear about key supervisory initiatives at community banks and ongoing research in the community banking area.

Tailoring Regulations and Policies for Community Banks

At the Federal Reserve, we weigh the burden on banks to implement new regulatory requirements against the need for requirements to safeguard the safety and soundness of the financial system. We recognize that the cost of compliance can be disproportionally greater on smaller banks versus larger institutions, as they have fewer staff available to help comply with additional regulations. To address this, we work within the constraints of the relevant statutory mandate to draft rules so as not to subject community banks to requirements that would be unnecessary or unduly burdensome to implement.

Many recently established rules have been applied only to the largest, most complex banking organizations. For example, the Federal Reserve and the other Federal banking agencies have not applied large-bank stress testing requirements to community banks. To clarify stress testing expectations for community banks, the Federal banking agencies issued a policy statement in May 2012.[8] While the stress test-

[4] *http://federalreserve.gov/aboutthefed/cdiac.htm*

[5] Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC), "Federal Bank Regulatory Agencies Seek Comment on Interagency Effort To Reduce Regulatory Burden", press release, June 4, 2014, *www.federalreserve.gov/newsevents/press/bcreg/20140604a.htm.*

[6] See the Federal Financial Institutions Examination Council's (FFIEC) EGRPRA Web site at *http://egrpra.ffiec.gov/* for more information.

[7] *http://federalreserve.gov/aboutthefed/bios/board/default.htm*

[8] Board of Governors of the Federal Reserve System, FDIC, and OCC, "Agencies Clarify Supervisory Expectations for Stress Testing by Community Banks", press release, May 14, 2012, *www.federalreserve.gov/newsevents/press/bcreg/20120514b.htm*.

ing policy statement reiterated the Federal Reserve's view that all banking organizations, regardless of size, should have the capacity to analyze the potential impact of adverse outcomes on financial conditions, the agencies also made clear that community banks were exempt from the more stringent requirements for the largest banks, such as Dodd-Frank Wall Street Reform and Consumer Protection Act stress testing and the Federal Reserve's Comprehensive Capital Analysis and Review. The Federal Reserve has reminded examiners that while community banks should anticipate how future events and adverse trends might affect the institution's financial condition and viability, examiners should not apply complex large-bank stress testing expectations to community banks.

Most recently, the Board issued an interim final rule and proposed rule to implement Public Law 113-250, which was signed into law by the President in December 2014.[9] Effective immediately, the interim rule adopted by the Board excludes small savings and loan holding companies with less than $500 million in total consolidated assets that meet certain qualitative requirements from the Board's regulatory capital requirements (Regulation Q). This effectively places these savings and loan holding companies on equal footing with similarly sized bank holding companies that are subject to the Board's Small Bank Holding Company Policy Statement (policy statement).

The Board also issued a notice of proposed rulemaking that would raise the asset size threshold from $500 million to $1 billion for determining applicability of the policy statement, and expand its scope to include savings and loan holding companies. The policy statement facilitates the transfer of ownership of small community banks by allowing their holding companies to operate with higher levels of debt than would otherwise be permitted. Institutions subject to the policy statement are not subject to the Board's regulatory capital requirements.

While consolidated capital requirements do not apply to firms covered by the policy statement, regulatory capital requirements will continue to apply at the depository institution level.

The Federal Reserve has made a concerted effort to communicate clearly to both community bankers and examiners about new requirements that are applicable to which community banks. We provide a statement at the top of each Supervision and Regulation letter and each Consumer Affairs letter that clearly indicates which banking entity types are subject to the guidance. These letters are the primary means by which the Federal Reserve issues supervisory and consumer compliance guidance to bankers and examiners, and this additional clarity allows community bankers to focus efforts only on the supervisory policies that are applicable to their banks. Also, to assist community banks in understanding how new complex rules could possibly affect their business operations, the Federal banking agencies have issued supplemental guides that focus on which rule requirements are most applicable to community banks. For example, the Federal banking agencies issued supplemental guides for the capital requirements issued in July 2013, as well as the Volcker rule issued in December 2013.[10] Moreover, it is important to note that we work closely with our colleagues at the State banking agencies and the other Federal regulatory agencies to ensure that our supervisory approaches and methodologies are applied as consistently as possible to all community banks.

We also have developed several platforms to improve our communication with community bankers and to enhance our industry training efforts. For example, we have developed two programs—"Ask the Fed" and "Outlook Live"[11]—as well as periodic newsletters and other communication tools such as FedLinks.[12] These platforms highlight information about new requirements and examiner expectations to

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[9] Board of Governors of the Federal Reserve System, "Federal Reserve Board Invites Public Comment on Proposed Rule To Expand the Applicability of Board's Small Bank Holding Company Policy Statement", press release, January 29, 2015, *www.federalreserve.gov/newsevents/press/bcreg/20150129b.htm.*

[10] Board of Governors of the Federal Reserve System, FDIC, and OCC, "New Capital Rule: Community Bank Guide", July, 9, 2013, *www.federalreserve.gov/bankinforeg/basel/files/capital_rule_community_bank_guide_20130709.pdf;* and Board of Governors of the Federal Reserve System, FDIC, and OCC, "The Volcker Rule: Community Bank Applicability", December 10, 2013, *www.federalreserve.gov/newsevents/press/bcreg/bcreg20131210a4.pdf.*

[11] Consumer Compliance Outlook is available at *www.philadelphiafed.org/bank-resources/publications/consumercompliance-outlook/*, and Outlook Live is available at *www.philadelphiafed.org/bankresources/publications/consumer-compliance-outlook/outlook-live/*.

[12] FedLinks is available at *www.cbcfrs.org/fedlinks*. Also see another Federal Reserve publication, Community Banking Connections, which is available at *www.cbcfrs.org/*.

address issues that community banks currently face and provide resources on key supervisory policies.

Changes in Regulatory Reporting Requirements

In an action related to changes in the policy statement, the Board took immediate steps beyond what was required in the legislation to relieve regulatory reporting burden for bank holding companies and savings and loan holding companies that have less than $1 billion in total consolidated assets and meet the qualitative requirements of the policy statement. Specifically, the Board eliminated quarterly and more complex consolidated financial reporting requirements (FR Y–9C) for these institutions, and instead required parent-only financial statements (FR Y–9SP) semi-annually. The Board also eliminated regulatory capital reporting for savings and loan holding companies with less than $500 million in total consolidated assets from the FR Y–9SP. The Board filed an emergency request with the Office of Management and Budget and received approval to make these changes effective on March 31, 2015, while it completes the notice and comment process on the related rulemakings. The Board took this action and immediately notified the affected institutions so they would not continue to invest in system changes to report revised regulatory capital data for only a short period of time. Also, the Board took this action in response to feedback from members of the banking community who indicated that reducing the reporting frequency of financial data could save institutions time, especially time spent on internal audit and review processes associated with senior officials' attestations.

A number of community banks have suggested reducing burden from required quarterly reporting of the Consolidated Reports of Condition and of Income (the Call Report). Working through the Federal Financial Institutions Examination Council, the Federal Reserve is considering a number of ways to be responsive to industry concerns about Call Report filing requirements and assess the potential impact of collecting less data from banks. Later this month, the Federal banking agencies will host a teleconference with bankers to provide additional guidance on the reporting of revised regulatory capital information on the Call Report.

Risk-Focused Supervision Examination Process

Consistent with the Federal Reserve's approach to development of supervisory policy, our longstanding risk-focused approach to consolidated supervision provides that examination and inspection procedures should be tailored to each organization's size, complexity, risk, profile, and condition. There are distinct differences between the supervision program of a large, complex bank and a small, noncomplex bank. For one, large banks generally have a dedicated supervisory team that may be resident at the bank, unlike small banks, which may only meet with an examination team every 12 to 18 months. Furthermore, if a bank is engaging in nontraditional or higher-risk activities, our supervision program typically requires greater scrutiny and a higher level of review of specific transactions. Conversely, if a well-managed bank's activities are lower risk, we adjust our expectations for examiners to a lower level of review. In this way, we alleviate examination burden on community banks with histories of sound performance and modest risk profiles.

We are continually working to calibrate examination expectations so that they are commensurate with the level of risk at banking organizations. For example, the Federal Reserve has an initiative currently underway to use forward-looking risk analytics to identify high-risk community and regional banks, which would allow us to focus our supervisory response on the areas of highest risk and reduce the regulatory burden on low-risk community and regional banks.

The Federal Reserve also adopted a new consumer compliance examination framework for community banks in January 2014. [13] While we have traditionally applied a risk-focused approach to consumer compliance examinations, the new program more explicitly bases examination intensity on the individual community bank's risk profile, weighed against the effectiveness of the bank's compliance controls. As a result, we expect that examiners will spend less time on low-risk compliance issues at community banks, increasing the efficiency of our supervision and reducing regulatory burden on many community banks. In addition, we revised our consumer compliance examination frequency policy to lengthen the time frame between on-site

[13] See the Board's Consumer Affairs Letter CA 13-19 (November 18, 2013), "Community Bank Risk-Focused Consumer Compliance Supervision Program" at *www.federalreserve.gov/bankinforeg/caletters/caltr1319.htm* and Consumer Affairs Letter CA 13-20 (November 18, 2013), "Consumer Compliance and Community Reinvestment Act (CRA) Examination Frequency Policy" at *www.federalreserve.gov/bankinforeg/caletters/caltr1320.htm.*

consumer compliance and Community Reinvestment Act examinations for many community banks with less than $1 billion in total consolidated assets.

In addition to our efforts to refine our risk-focused approach to supervision, we have been investigating ways that would allow for more supervisory activities to be conducted off-site, which can improve efficiency and reduce burden on community banks. For example, we can conduct some aspects of the loan review process off-site for banks that maintain electronic loan records and have invested in technologies that would allow us to do so. While off-site loan review has benefits for both bankers and examiners, some bankers have expressed concerns that increasing off-site supervisory activities could potentially reduce the ability of banks to have face-to-face discussions with examiners regarding asset quality or risk-management issues. In that regard, we will continue to work with community banks that may prefer their loan reviews to be conducted on-site. In short, the Federal Reserve is trying to strike an appropriate balance of off-site and on-site supervisory activities to ensure that resources are used more efficiently while maintaining high-quality supervision of community banking organizations.

The Federal Reserve has invested significant resources in developing various technological tools for examiners to improve the efficiency of both off-site and on-site supervisory activities, while ensuring the quality of supervision is not compromised. For instance, the Federal Reserve has automated various parts of the community bank examination process, including a set of tools used among all Reserve Banks to assist in the preexamination planning and scoping. This automation can save examiners and bank management time, as a bank can submit requested preexamination information electronically rather than mailing paper copies to the Federal Reserve Bank. These tools also assist examiners in the continuous, off-site monitoring of community banks, enabling examiners to determine whether a particular community bank's financial condition has deteriorated and warrants supervisory attention between on-site examinations.

As we develop supervisory policies and examination practices, we are mindful of community bankers' concerns that new requirements for large banks could become viewed as "best practices" that trickle down to community banks in a way that is inappropriate. To address this concern, the Federal Reserve is enhancing communications with and training for examinations staff about expectations for community banks versus large banks to ensure that expectations are calibrated appropriately. Specifically, we are modernizing our longstanding examiner commissioning training program for community bank examiners, and a key part of this effort is reviewing the curriculum to ensure that supervisory expectations for larger banks do not make their way into the community bank examination curriculum. In addition, when new supervisory policies are issued, we typically arrange a teleconference to explain the new policy to examiners, including whether and to what extent the policy is applicable to community banks. By effectively training our examination staff and providing channels to keep them informed of newly issued policies in a timely manner, examiners are better equipped to understand the supervisory goals of regulations and guidance for community banks and to provide appropriate guidance to community banks.

Additional Opportunities To Reduce Burden

In addition to the steps taken to reduce regulatory burden that were already discussed, the Federal Reserve recently issued the first semiannual public report on applications activity.[14] The report aims to increase transparency about applications filings, while providing useful information to bankers to help them gain efficiency. In addition, Federal Reserve System staff are working to identify opportunities to change examination practices and rules to increase efficiency of the examination process and thereby reduce the time community bankers spend to prepare and work with examiners. We are in the process of conducting a review of community bank examination scoping procedures to make sure they are aligned with current banking practices and risks, and reflect key lessons from the crisis. Overall, these adjustments should enhance our supervisory efficiency by targeting more intensive examination work at bank activities that proved to be higher risk and reducing some examination testing at community banks that performed well throughout the crisis.

Although none of the actions that we are currently taking require legislative changes, some of the relief that bankers have asked for and suggestions developed through the EGRPRA process may require legislative action. We will work with the other Federal banking agencies as appropriate to consider and assess the impact of potential changes identified through the EGRPRA review process.

[14] The report can be found at *www.federalreserve.gov/bankinforeg/semiannual-report-on-banking-applications-20141124.pdf.*

Conclusion

We understand that one size does not fit all in supervision and regulation and that supervisory expectations for the largest, most complex firms are often inappropriate for community banks. We are committed to making sure that regulations, policies, and activities are appropriately tailored to the level of risk inherent in these institutions and that we respond to ideas for reducing burden that come through the EGRPRA process. The Federal Reserve is committed to taking a balanced approach that fosters safe and sound community banks and fair treatment of consumers, and encourages the flow of credit to consumers and businesses.

Thank you for inviting me to share the Federal Reserve's views on the effect of regulatory burden on community banks. I would be pleased to answer any questions you may have.

PREPARED STATEMENT OF TONEY BLAND

SENIOR DEPUTY COMPTROLLER FOR MIDSIZE AND COMMUNITY BANK SUPERVISION, OFFICE OF THE COMPTROLLER OF THE CURRENCY

FEBRUARY 10, 2015

Introduction

Chairman Shelby, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to appear before you today. Consistent with the Committee's invitation letter, my testimony focuses on the challenges facing small national banks and Federal savings associations (hereafter referred to as community banks) and the work of the Office of the Comptroller of the Currency (OCC) to help these institutions remain a vibrant part of our Nation's financial system. I also discuss specific steps we are taking to address regulatory burden on community banks, OCC recommendations for congressional action in furtherance of this goal, and our progress on the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) regulatory review.

Before describing these initiatives, I would like to share the OCC's perspective on community banks. The OCC supervises approximately 1,400 institutions with assets under $1 billion. These community banks provide many of the essential financial services and much of the credit necessary for our Nation's economic growth. Throughout the country, these banks help small businesses thrive by offering personalized service and credit products tailored to their customers' needs. In addition, these banks and their employees strengthen our cities and towns by helping to meet municipal finance needs and actively participating in civic life.

Overseeing the safety and soundness of community banks is central to the mission of the OCC. Approximately two-thirds of our examination staff is dedicated to the supervision of these institutions. In my role as Senior Deputy Comptroller for Midsize and Community Banks, I regularly meet with community bankers to hear first-hand about their successes, their challenges, and their frustrations. I have seen how well-managed community banks weathered the financial crisis and provided a steady source of credit to their communities. But I've also heard their concerns about the long-term viability of their business models. And I've heard their frustration with the time and resources they spend trying to track and comply with regulatory requirements—time and resources they contend could be better spent responding to the needs of their customers and communities.

We take these concerns seriously. My testimony describes steps that we are taking to help community bankers meet these challenges, navigate the changing regulatory landscape, and ensure that the OCC's supervisory policies and regulations are appropriately tailored to community banks. I also provide the OCC's perspective on legislative proposals and regulatory opportunities for reducing regulatory burden on these important institutions.

The OCC's Approach to Community Bank Supervision

The OCC is committed to fostering a regulatory climate that allows well-managed community banks to grow and thrive. We have built our supervision of community banks around local field offices where the local Assistant Deputy Comptroller (ADC) has responsibility for the supervision of a portfolio of community banks. Each ADC reports to a District Deputy Comptroller who, in turn, reports to me. We have based our community bank examiners in over 60 locations throughout the United States, close to the banks they supervise.

Statement Required by 12 U.S.C. §250: The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

Through this supervisory structure, community banks receive the benefits of highly trained bank examiners with local knowledge and experience, supplemented by the resources and specialized expertise that a nationwide organization can provide. Our bank supervision policies and procedures establish a common framework and set of expectations. Each bank's portfolio manager tailors the supervision of each community bank to its individual risk profile, business model, and management strategies. We give our ADCs considerable decision-making authority, reflecting their experience, expertise, and first-hand knowledge of the institutions they supervise.

We also seek to ensure that we apply our supervisory policies, procedures, and expectations in a consistent and balanced manner. For example, a key element of the OCC's supervisory philosophy is open and frequent communication with the banks we supervise. In this regard, my management team and I encourage any banker who has concerns about a particular examination finding to raise these concerns with his or her examination team and with the district management team that oversees the bank. Our ADCs and Deputy Comptrollers expect and encourage such inquiries.

If a banker does not want to pursue these avenues of communication, our Ombudsman provides a venue for bankers to discuss their concerns, either informally or formally by requesting an appeal of examination findings. The OCC's Ombudsman is fully independent of the supervisory process, and he reports directly to the Comptroller. In addition to hearing formal appeals, his office provides bankers with an impartial ear to hear complaints and a mechanism to facilitate the resolution of disputes with our examination staff.

Tailored Supervision

The OCC understands that a one-size-fits-all approach to supervision is not always appropriate, especially for community banks. We recognize that community banks have different business models and more limited resources than larger banks. Therefore, where we have the flexibility under the law, we seek to tailor our supervision to a bank's size and complexity, and we factor these differences into the rules we write and the guidance we issue.

The OCC seeks to minimize burden on community banks through various means. Examples of ways in which we tailor our regulations to accommodate community banks, while remaining faithful to statutory requirements and legislative intent, include explaining and organizing our rulemakings so these institutions can better understand their scope and application, providing alternative ways to satisfy regulatory requirements, and using regulatory exemptions or transition periods.

For example, the OCC, Federal Deposit Insurance Corporation (FDIC), and Board of Governors of the Federal Reserve System (Board) jointly drafted the final risk-based regulatory capital rule to reflect the nature and complexity of the different institutions we regulate. Although some provisions in the rule apply broadly, many requirements, including the supplementary leverage ratio and the countercyclical capital buffer, apply only to the largest banking organizations that engage in complex or risky activities. We also adjusted the final rule to address significant concerns raised by community bankers by retaining the current capital treatment for residential mortgage exposures and allowing community banks to elect to treat certain accumulated other comprehensive income (AOCI) components in a manner consistent with the general risk-based capital rules. This treatment of AOCI helps community banks avoid introducing substantial volatility into their regulatory capital calculations. And we continue to explore additional ways to tailor the capital rules to respond to community bank concerns and proposals, consistent with our objective of ensuring appropriate levels and quality of capital.

The OCC also responded to community bank concerns when we finalized our revised lending limits rule, issued in accordance with section 610 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), to include counterparty credit exposure arising from derivatives and securities financing transactions. Specifically, the rule exempts from the lending limit calculations certain securities financing transactions most commonly used by community banks. It also permits small institutions to adopt compliance alternatives commensurate with their size and risk profile by providing flexible options for measuring covered counterparty credit exposures, including an easy-to-use lookup table.

Our final rule implementing the Volcker Rule provisions of the Dodd-Frank Act is another example of how we seek to adapt statutory requirements to activities at different sized institutions, where possible. The statute applies to all banking entities, regardless of size; however, not all banking entities engage in activities covered by the prohibitions in the statute. One of the OCC's priorities in the interagency Volcker rulemaking was to make sure that the final regulations imposed compliance obligations on banking entities in proportion to their involvement in covered activities and investments. The rule, however, does not exempt community banks from the burden of needing to assess and determine whether their activities may be covered by the rule. As noted later in my testimony, we have submitted a legislative proposal that would exempt small banks from this rule.

The OCC is constantly seeking to improve how we communicate information to community banks and to provide them with tools and resources to assist them in identifying and managing their risks. We have designed the bulletins announcing the issuance of each new regulation or supervisory guidance so that these banks can quickly assess whether the issuance applies to them, and we include a "highlights" section that identifies the key components of the rule or guidance. We also provide plain language descriptions of complex requirements to assist community bankers in understanding newly issued rules. For example, we provided community banks with a quick reference guide to the mortgage rules issued by the Consumer Financial Protection Bureau last year. We also produced a streamlined, 2-page summary of the final domestic capital rule, highlighting aspects of the rule and key transition dates applicable to community banks. We supplemented this summary with an online regulatory capital estimator tool for banks, which we developed with the other Federal banking agencies. The agencies plan to augment the estimator tool with a supplemental tool that banks may use to help calculate regulatory capital requirements for securitization exposures.

In addition, the OCC is interested in providing community banks with tools to assist them in determining whether they are adequately prepared to address cyberthreats. This has been a particular focus of the Federal Financial Institutions Examination Council (FFIEC), which the Comptroller currently chairs. During the summer of 2014, members of the FFIEC, including the OCC, piloted a cybersecurity assessment at more than 500 community institutions to evaluate their preparedness to mitigate cybersecurity risks. The assessment supplemented regularly scheduled exams and built upon key supervisory expectations contained within existing FFIEC information technology handbooks and other regulatory guidance. The agencies subsequently published *FFIEC Cybersecurity Assessment General Observations,* [1] which includes questions for bank management to consider when assessing their institutions' cybersecurity preparedness. We understand that community banks have found this information helpful in assessing their own strengths and weaknesses in this important area. In addition, the FFIEC is in the process of updating and expanding its cybersecurity guidance and expects to make an announcement on this soon.

Through our secure BankNet Web site, the OCC provides other tools targeted to community banks. These include a portfolio-level stress test tool designed to provide bankers with a simple method to perform portfolio stress testing on income producing commercial real estate loans. OCC examiners developed this optional tool in response to requests from community bankers seeking additional guidance on how to stress test their loan portfolios. Another popular tool allows bankers to develop customized peer reports that they can use to compare their bank's balance sheet and financial performance ratios to those of other banks.

The OCC's *Semiannual Risk Perspective* reports provide bankers with an analysis of current market and risk trends that may affect their institutions. Because we recognize that community banks may face different challenges than larger banks, the report discusses risks from both a large and small bank perspective. We supplement this semiannual report with periodic webinars, generally targeted to community banks, on emerging risk topics. For example, last year, the FFIEC conducted a webinar for community banks on "Executive Leadership of Cybersecurity". More than 5,000 Chief Executive Officers of community institutions registered for this event. The goal of this and similar webinars is to provide community bankers with practical information to help them mitigate emerging risks and to understand and comply with supervisory expectations.

Other Burden Reduction Opportunities

When considering proposals to reduce burden on community banks, the OCC seeks to ensure that the proposals do not compromise fundamental safety and soundness or consumer protection safeguards. Within this framework, the OCC is committed to exploring additional ways to reduce unnecessary regulatory burden on community banks. To this end, we are undertaking several regulatory review projects designed to reduce burden, particularly on community banks, and are considering other innovative approaches to address this issue. Late last year, we drafted and submitted three legislative proposals that, if enacted, would provide a statutory basis to revise our regulations and reduce burden on covered institutions. These

[1] *http://www.ffiec.gov/press/PDF/FFIEC_Cybersecurity_Assessment_Observations.pdf*

proposals, which I describe below, are the product of both our on-going dialogue with smaller institutions and our supervisory expertise with both large and small banks and savings associations. We recently resubmitted these proposals to this committee for consideration. In addition, the OCC would be pleased to share our experience and expertise with the Committee as it considers other legislative options to address regulatory burden.

Legislative Proposals

Amendments to the Scope of the Volcker Rule. The risks to the financial system of proprietary trading and owning or sponsoring private equity and hedge funds are far more significant when larger institutions engage in these activities than when community banks do so, to the extent they even engage in such activities. Yet, the Volcker Rule contains no exemption for community banks. Accordingly, community banks need to ascertain whether their activities are covered by the Volcker Rule in order to understand whether they have any compliance obligations. Making this determination may require them to expend money and resources—for example, by hiring attorneys and consultants. This regulatory burden is not justified by the risk these institutions present.

In response to concerns raised by community institutions, and issues that have arisen during our ongoing Volcker Rule implementation efforts, the OCC drafted a legislative proposal to exempt from the Volcker Rule banks with total consolidated assets of $10 billion or less. This proposal would eliminate unnecessary burden for small banks while ensuring that we address the risks the Volcker Rule sought to eliminate. Where a community bank engages in activities covered by the current Volcker Rule, the OCC could address any concerns as part of its normal safety and soundness supervisory process. Based on our analysis, we estimate that this amendment could exempt more than 6,000 small banks, including small banks regulated by the OCC, from the requirement to comply with the regulations implementing the Volcker Rule.

Revisions to the Examination Schedule. The OCC generally examines national banks and Federal savings associations with total assets greater than $500 million on a 12-month cycle. We believe, however, that there are additional healthy, well-managed community banks that should qualify for the 18-month examination cycle. Accordingly, the OCC drafted a legislative proposal to increase from $500 million to $750 million the asset-size threshold that determines whether a community bank can qualify for an examination every 18 months, rather than every 12 months. The OCC would continue to use off-site monitoring tools to identify potential problems in these low risk institutions and, if warranted, could examine the institution more frequently.

This is consistent with the incremental approach that Congress has taken when increasing the threshold amount of assets that permit small institutions to qualify for the 18-month examination cycle. Furthermore, it would allow the OCC to more appropriately align our supervisory resources with risk, while simultaneously reducing the regulatory burden on small, well-capitalized, and well-managed institutions. We estimate that this amendment would affect more than 300 banks, including banks regulated by the OCC.

Changes to Permissible Activities for Federal Savings Associations. Currently, the powers of Federal savings associations are set out in the Home Owners' Loan Act (HOLA), which establishes lending and investment limits for these institutions. Federal savings associations have told us that they would like to engage in additional activities to serve their communities but are unable to do so because of the HOLA limits. Under existing law, their only option is to convert to a bank charter, a process that can impose costs and burden that we believe can be alleviated.

To address these concerns, the OCC drafted legislation that would give a Federal savings association a choice: continue to operate as a traditional thrift or file a notice to be treated as a "covered savings association." Generally, a covered savings association would have the powers of and be subject to the same restrictions as a national bank. In practice, this means that a Federal savings association that becomes a covered savings association would gain national bank powers but would have to discontinue activities not permissible for a national bank, subject to rules governing nonconforming assets and subsidiaries. This option would provide a Federal savings association with the flexibility to retain its current corporate form and governance structure without unnecessarily limiting the evolution of its business plan. If a Federal savings association's business plan changed after it became a covered savings association, it generally would be permitted to reverse its election and regain its traditional thrift status after an appropriate period. This proposal would allow these institutions to adapt to changing economic and business environments and to better meet the needs of their communities. As the supervisor of both national banks and Federal savings associations, we are well-positioned to administer this type of framework given our familiarity with the individual institutions and their governing statutes.

Current Initiatives

While the OCC calibrates individual regulations to account for differences in the size and complexity of institutions as they are developed, we recognize the need to periodically assess how existing rules can be modified to ease regulatory burden on banks. The OCC has several projects underway, and it is considering other approaches to achieve this goal.

Integration of National Bank and Savings Association Rules. The Dodd-Frank Act transferred to the OCC all functions of the Office of Thrift Supervision (OTS) relating to the examination, supervision, and regulation of Federal savings associations. Following the transfer of OTS rulemaking functions to the OCC, we began a comprehensive, multiphase review of our regulations and those of the former OTS to reduce burden and duplication, promote fairness in supervision, and create efficiencies for national banks and Federal savings associations. Last spring, we issued a proposal to integrate our bank and saving association rules relating to corporate activities and transactions into a single set of rules, where possible. Many of the changes included in the proposal would reduce burden for all institutions, including community banks. We are working on a final rule to implement these changes and hope to issue it in the near future.

EGRPRA. The OCC, FDIC, Board, and FFIEC are currently engaged in a review of their regulations imposed on insured depository institutions, as required by EGRPRA. Specifically, the statute requires that, at least once every 10 years, the agencies seek public comment on rules that are outdated or otherwise unnecessary. This provides both the agencies and the public with an opportunity to consider how to reduce burden. The OCC, as chair of the FFIEC, is currently coordinating this joint regulatory review.

To conduct the EGRPRA review, the agencies published a *Federal Register* notice this past June asking for comment on three categories of rules. We plan to issue a second *Federal Register* notice this month seeking comment on three additional categories, followed by two additional notices on the remaining rules during the next year. In each notice, we specifically ask the public to identify ways to reduce unnecessary burden associated with our regulations, with a particular focus on community banks.

The agencies received over 40 comments on the first *Federal Register* notice, many of which suggested specific rule changes. We are carefully reviewing all of the comments to identify where changes would be appropriate. In addition, we are undertaking our own review of these rules, and the statutes they implement. This project is very important to the Comptroller, and we are hopeful that it will yield positive results, particularly for community banks.

In addition, the agencies are holding a series of EGRPRA outreach meetings to give members of the public an opportunity to present their views in person. The outreach meetings feature panel presentations by industry participants and consumer and community groups. To date, we have held outreach meetings in Los Angeles and Dallas, and I have participated in each of these meetings to hear first-hand the views and recommendations offered by the many participants. We have additional meetings scheduled in Boston, Chicago, and Washington, DC. We have also scheduled an outreach meeting in Kansas City that will focus specifically on rural banking issues. Recognizing that travel costs may restrict the ability of interested parties to attend in person, we live-stream each outreach meeting, where possible, and provide a video archive of the proceedings to increase the public's opportunity to view the meetings. These resources are easily accessible on the agencies' EGRPRA Web site, along with the *Federal Register* notices, all comments we have received, and additional EGRPRA information. [2]

While the EGRPRA process will unfold over a period of time, the OCC will not wait until it is over to implement changes where a good case is made for regulatory relief. Where it is clear that a regulation is outdated, unnecessary, or unduly burdensome, we will act where we have the authority to do so. For example, we are actively reviewing suggestions to eliminate board of director approvals in certain circumstances and to broaden the use of electronic submissions for filing forms. In addition, many of the changes that we included in the integration rulemaking discussed above are consistent with comments we received in the EGRPRA review. Finally, the EGRPRA review may help us identify burdensome regulatory require-

[2] The EGRPRA Web site can be accessed at *http://egrpra.ffiec.gov.*

ments that derive from statutory provisions. When we identify these provisions, we look forward to sharing our insights and experience with Congress.

Call Report Simplification. The OCC and other Federal banking agencies, under the auspices of the FFIEC, are considering ways that we can further tailor reporting requirements for community banks. Recently, we have received proposals to reduce the burden associated with the preparation of the Consolidated Reports of Condition and Income (Call Reports), including the feasibility of allowing certain banks to file a short-form Call Report for two quarters of a year. The OCC has discussed the Call Report issue in numerous meetings with bankers, and we are committed to carefully considering their concerns.

As part of this effort, the OCC and other Federal banking agencies have agreed to undertake a comprehensive review of all Call Report items and schedules and to review every line item of every schedule in the Call Report to try to determine what truly needs to be collected and if there is any other way to get such information. The OCC's standard is that Call Report data should directly support long-term supervisory needs to ensure the safety and soundness of banks and that a strong business case that discusses the relative benefits, costs, and alternatives must support any additions. At the request of members of the FFIEC, its Task Force on Reports is developing a set of guiding principles as the basis for evaluating potential additions or deletions of data items to and from the Call Report.

Collaboration. While we expect that the above-referenced projects will reduce burden for many community banks, the OCC is also studying other, less conventional approaches to help community banks thrive in the modern financial world. One especially promising approach involves collaboration between community banks and is the subject of an important paper the OCC published last month. [3] The principle behind this approach, which grew out of productive and ongoing discussions between the OCC and our community banks, is that by pooling resources, community banks can manage regulatory requirements, trim costs and serve customers who might otherwise lie beyond their reach. We have already seen examples of successful collaboration, such as community banks forming an alliance to bid on larger loan projects and banks pooling resources to finance community development activities.

There are many other opportunities of this nature, which can increase efficiencies and save money. As noted in our paper, these include collaboration on accounting, clerical support, data processing, employee benefit planning, and health insurance—to name just a few. Our innovative community banks can undoubtedly find other ways to share resources in a safe and sound manner.

Conclusion

Community banks are essential to our Nation's communities and small businesses. The OCC is committed to minimizing unnecessary regulatory burden for these institutions. We will continue to carefully consider the potential effect that current and future policies and regulations may have on community banks and will be happy to work with the Committee on any proposed legislative initiatives.

PREPARED STATEMENT OF LARRY FAZIO

DIRECTOR, OFFICE OF EXAMINATION AND INSURANCE, NATIONAL CREDIT UNION ADMINISTRATION

FEBRUARY 10, 2015

Chairman Shelby, Ranking Member Brown, and Members of the Committee, the National Credit Union Administration appreciates the invitation to testify about regulatory relief. [1] I am Larry Fazio, Director of NCUA's Office of Examination and Insurance.

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[3] "An Opportunity for Community Banks: Working Together Collaboratively", Jan. 13, 2015.

[1] NCUA's primary mission is to provide, through regulation and supervision, a safe and sound credit union system. NCUA performs this important public function by:

Examining all Federal credit unions;

Participating in the supervision of federally insured, State-chartered credit unions in coordination with State regulators; and

Insuring accounts up to $250,000 at federally insured credit unions.

As required by the Federal Credit Union Act, NCUA also serves as the administrator of the $12 billion National Credit Union Share Insurance Fund. In this role, NCUA provides oversight and supervision to 6,350 federally insured credit unions. Of these credit unions, NCUA directly supervises 3,981 Federal credit unions chartered by the agency.

Today, three-quarters of credit unions have less than $100 million in assets and the median asset size of a credit union is $24 million.[2] Smaller credit unions in particular have fewer resources available to respond to marketplace, technological, legislative, and regulatory changes. NCUA, therefore, is acutely aware of the need to calibrate our rules and examinations to remove any unnecessary burden on these smaller credit unions.

NCUA scales our regulatory and supervisory expectations for smaller credit unions. NCUA also seeks to provide broader regulatory relief when it is sensible and within the agency's authority to do so. Over the past 3 years, we have taken many actions to cut red tape and provide lasting benefits to credit unions. This includes relaxing eight regulations and streamlining three processes.

Where regulation is necessary to protect the safety and soundness of credit unions and the National Credit Union Share Insurance Fund, NCUA employs a variety of strategies to ensure our regulations are effectively targeted.[3] These strategies include fully exempting small credit unions from certain rules, using graduated requirements as size and complexity increase for others, and incorporating practical compliance approaches in agency guidance. In short, we work to balance maintaining prudential standards with minimizing regulatory burden.

My testimony will discuss elements of NCUA's current rulemaking process, including recent and prospective efforts to tailor regulation and supervision based on credit unions' size and complexity. I will also comment on NCUA's efforts to reduce examination burdens. Finally, I will offer legislative recommendations related to regulatory relief.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, NCUA must publish an analysis in the *Federal Register* and give special consideration to the regulatory burden and alternatives for small credit unions whenever a proposed or final rule would impose a significant economic burden on a substantial number of small credit unions.[4]

In recognition of the operational and financial challenges faced by smaller credit unions, the NCUA Board in January 2013 reviewed the threshold used to identify which credit unions qualify as small entities under the Regulatory Flexibility Act. Based on credit union system percentages carried forward from the last update in 2003 and corresponding risks to the Share Insurance Fund, the Board determined credit unions with less than $50 million in assets, up from the prior $10 million threshold, were small entities for purposes of the Regulatory Flexibility Act.

At the time of the 2013 adjustment, the number of credit unions classified as small for purposes of the Regulatory Flexibility Act nearly doubled. Today, 4,124 institutions representing 65 percent of all credit unions are covered by the small credit union definition.

At the same time it revised the small credit union definition, the NCUA Board provided immediate regulatory relief by exempting credit unions under $50 million from several regulatory requirements. First, the Board increased from $10 million to $50 million the threshold that defines which credit unions are complex, narrowing the category of credit unions that could be subject to risk-based net worth requirements and the associated prompt corrective action mandates. Second, the Board increased from $10 million to $50 million the threshold used to exempt credit unions from our interest rate risk rule.

In a coordinated policy change, the Board nearly doubled the number of credit unions eligible to apply for NCUA's Office of Small Credit Union Initiatives' individ-

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[2] The term "credit union" is used throughout this testimony to refer to federally insured credit unions. NCUA does not oversee approximately 132 State-chartered, privately insured credit unions. As of September 30, 2014, federally insured credit unions represent 98 percent of all credit unions in the United States and serve 98.7 million credit union members.

As a policy matter, in 2007 NCUA issued a report to Congress concluding that the Federal Government should be the sole provider of primary deposit insurance. Federal deposit insurance has played an important role in maintaining confidence in the financial system and the stability of our economy, and the lessons learned from failures of private deposit insurance schemes should not be forgotten. See *http://www.ncua.gov/Legal/Documents/DepositInsuranceStudyReporttoCongress-Ver6-4.pdf* for more details.

[3] Congress established the National Credit Union Share Insurance Fund in 1970 as part of the Federal Credit Union Act (P.L. 91-468) and amended the Share Insurance Fund's operations in 1984 (P.L. 98–369). The fund operates as a revolving fund in the U.S. Treasury under the administration of the NCUA Board for the purpose of insuring member share deposits in all Federal credit unions and in qualifying State-chartered credit unions that request Federal insurance. Funded by federally insured credit unions, the Share Insurance Fund is backed by the full faith and credit of the United States.

[4] The Regulatory Flexibility Act provides NCUA with the opportunity to define which credit unions fall under the law's coverage. 5 U.S.C. 601(4).

ualized consulting services by increasing the eligibility threshold to $50 million.[5] Subsequently, the NCUA Board extended relief at the same level in new rules requiring certain liquidity contingencies and creditor notices in voluntary liquidations.

In January 2013, the NCUA Board also committed the agency to revisit the Regulatory Flexibility Act threshold in 2015 and every 3 years thereafter.[6] The Board took this action to ensure the definition of a small credit union would keep pace with changes in the marketplace.

As a result, next week the Board will consider a proposed rule to include hundreds of additional credit unions under the definition of a small entity. Increasing the threshold from $50 million to $100 million would provide special consideration for regulatory relief for an additional 745 credit unions in future rulemakings.

Should the Board adopt a $100 million threshold, 77 percent of all credit unions would be covered in future considerations of regulatory relief.[7] Taking this action also would recognize the challenges encountered by credit unions below $100 million in assets, which have slower deposit growth rates, slower membership growth rates, and higher operating costs than peer credit unions above the threshold.

Regulatory Review Efforts

NCUA is ever mindful of the impact of regulations on credit unions, especially smaller ones. We are proactive in our efforts to identify outdated, ineffective, or excessively burdensome regulations. We also continually review and take appropriate steps to eliminate or ease burdens, whenever possible, without compromising safety and soundness.

Rolling Regulatory Review

Since 1987, NCUA has followed a well-delineated and deliberate process to continually review its regulations and seek comment from stakeholders, such as credit unions and trade associations. Through this agency-initiated process, NCUA conducts a rolling review of one-third of its regulations each year, meaning that we review all of our regulations at least once every 3 years.

This long-standing regulatory review policy helps to ensure NCUA's regulations:

- Impose only the minimum required burdens on credit unions, their members, and the public.
- Are appropriate for the size of the credit unions regulated by NCUA.
- Are issued only after full public participation in the rulemaking process.
- Are clear and understandable.

This rolling review is fully transparent. NCUA publishes on our Web site a list of the applicable regulations up for review each year and invites public comment on any or all of the regulations.[8]

Economic Growth and Regulatory Paperwork Reduction Act

Further, NCUA is voluntarily participating in the interagency review process created by the Economic Growth and Regulatory Paperwork Reduction Act of 1996.[9] EGRPRA requires the Federal Financial Institutions Examination Council and its member Federal banking agencies to review their regulations at least once every 10 years to identify any rules that might be outdated, ineffective, unnecessary, insufficient, or excessively burdensome. NCUA is not required to participate in this process, but the agency has elected once again to do so.

Under the EGRPRA review, each agency is issuing several categories of rules for public comment at regular intervals over 2 years—with an eye towards streamlining, modernizing, or even repealing regulations when appropriate. The categories are:

- Agency Programs,
- Applications and Reporting,
- Capital,

[5] Created in 2004, NCUA's Office of Small Credit Union Initiatives fosters credit union development and the effective delivery of financial services for small, new, and low-income credit unions, as well as minority depository institutions. The office provides individualized consulting, loan and grant opportunities, targeted training, and valuable partnership and outreach services to help viable small credit unions thrive.

[6] This triennial review of the small credit union definition under the Regulatory Flexibility Act is in addition to NCUA's rolling 3-year review of all regulations.

[7] Credit unions with less than $100 million in assets hold 11 percent of the system's assets.

[8] See *http://www.ncua.gov/Legal/Regs/Pages/Regulations.aspx.*

[9] 12 U.S.C. 3311.

- Consumer Protection,
- Corporate Credit Unions,
- Directors,
- Officers and Employees,
- Money Laundering,
- Powers and Activities,
- Rules of Procedure, and
- Safety and Soundness.

In May 2014, 33 NCUA regulations in the Applications and Reporting and Powers and Activities categories were released for review. In a second notice in December 2014, NCUA opened 17 rules for comment in three additional categories: Agency Programs, Capital, and Consumer Protection.

As part of NCUA's voluntary participation in the latest EGRPRA review, NCUA will evaluate the burden on credit unions for those regulations within NCUA's control. NCUA, however, has no authority to provide relief from requirements imposed by other regulators.

Regulatory Modernization Initiative

In 2011, NCUA Board Chairman Debbie Matz launched the agency's Regulatory Modernization Initiative. The initiative balances two principles:

- Safety and soundness—strengthening regulations necessary to protect credit union members and the Share Insurance Fund.
- Regulatory relief—revising and removing regulations that limit flexibility and growth, without jeopardizing safety and soundness.

In implementing this initiative, NCUA also has held regular in-person and online town hall meetings to solicit feedback from stakeholders. These events have identified regulatory relief issues on which the agency has since acted.

Ultimately, NCUA under the initiative has taken 15 actions to cut red tape and provide lasting benefits to credit unions.[10] Specifically, NCUA during the last 3 years has worked to ease eight regulations, providing regulatory relief to thousands of credit unions. NCUA has also streamlined three processes—facilitating more than a thousand new low-income credit union designations, increasing blanket waivers for member business loans, and establishing an expedited process for examinations at smaller credit unions.[11] NCUA has additionally issued four legal opinions, allowing more flexibility in credit union operations.

Rulemaking Process

In developing any regulation, NCUA strives to ensure the agency's rulemakings are reasonable and cost-effective. NCUA additionally conducts an analysis to inform the agency's decisions in advance of regulatory actions. The analysis also ensures that regulatory choices are made after appropriate consideration of the likely consequences.

NCUA's safety and soundness regulations protect credit unions and the members who own them, as well as strengthen the credit union system the agency supervises and insures.[12] The benefit of these regulations is that they reduce the likelihood of credit union failures and, in doing so, promote stability and protect the Share Insurance Fund.

Any loss to the Share Insurance Fund is ultimately borne by surviving credit unions, which may be required to pay increased premiums. As member-owned cooperatives, this means the members, who are the owners and consumers of the cred-

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[10] See Appendix I for a complete list of these actions.

[11] A low-income credit union is one in which a majority of its membership (50.01 percent) qualifies as low-income members. Low-income members are those members who earn 80 percent or less than the median family income for the metropolitan area where they live, or the national metropolitan area, whichever is greater. In nonmetropolitan areas, the qualification threshold is a median family income at or below 80 percent of the State median family income for nonmetropolitan areas, or, if greater, the national median family income for nonmetropolitan areas. Under the Federal Credit Union Act, the low-income designation offers certain benefits and regulatory relief, such as an exemption from the cap on member business lending, eligibility for Community Development Revolving Loan Fund grants and low-interest loans, ability to accept deposits from nonmembers, and authorization to obtain supplemental capital.

[12] NCUA has a number of regulations that address issues other than safety and soundness, such as those rules related to field of membership, the Community Development Revolving Loan Fund, payday alternative loans, the organization of Federal credit unions, agency procedures, and examiner postemployment restrictions, among others.

it unions, may ultimately have to repay these costs. As the developments of the last decade have demonstrated, the cost of regulatory inaction can result in failures that impose a greater cost to credit unions and society than the cost of action. [13]

Through the public comment process, the NCUA Board gains insights on potential costs, unintended consequences, and alternative strategies directly from the credit unions the agency supervises and insures, as well as other interested stakeholders. The Board then uses this information to make adjustments before issuing a final rule. A good example of this process in action is NCUA's October 2013 final rule on emergency liquidity and contingency funding.

The proposed liquidity rule applied to all federally insured credit unions with more than $50 million in assets, but the public comment period yielded a number of important observations about the compliance requirements associated with establishing emergency lines of credit. Based on this information, the NCUA Board reconsidered the balance between costs and benefits specifically for credit unions between $50 million and $250 million in assets. The final rule exempted credit unions with assets up to $250 million from establishing emergency lines of credit with the Federal Reserve's Discount Window, or NCUA's Central Liquidity Facility, or both. Instead, the Board only required credit unions of this size to develop contingency funding plans that clearly set out strategies for meeting emergency liquidity needs.

Examples of Scaled Regulation

In addition to calibrating the liquidity and contingency funding rule, NCUA has recently scaled other regulations based on the asset size of the credit union. Examples of such tailored regulations include the agency's 2012 interest rate risk rule and the revised proposed risk-based capital rule issued last month. [14]

Interest Rate Risk Rule

NCUA's focus on interest rate risk management has been constant and pronounced for more than 15 years, as evidenced by a steady issuance of guidance to examiners and credit unions on asset-liability management. Since 2010, interest rate risk management has been a heightened focus for NCUA, and it is a primary supervisory focus for the agency again in 2015.

NCUA's focus on interest rate risk exposure has increased due to the extraordinary low level of interest rates and the overall lengthening of asset durations in the credit union system. NCUA is mindful that a period of rapidly rising rates could be a particularly challenging scenario for some credit unions. To stay ahead of the curve and maintain stable earnings, credit unions need to have policies in place to survive adverse rate environments.

These concerns led the NCUA Board to issue a final rule 3 years ago aimed at managing interest rate risk. Generally, the rule categorizes credit unions based on size, which is correlated to risk exposure, to determine the need to adopt a written policy on interest rate risk. Consistent with the Board's policy to exempt small credit unions from regulations when prudent, the size and exposure criteria in the interest rate risk rule exempt credit unions with less than $50 million in assets, while protecting the Share Insurance Fund by covering most of the system's assets.

The NCUA Board exempted smaller credit unions because they customarily have very low interest rate risk profiles as they are not as active in residential mortgage lending or long-term investing. [15] Also, smaller credit unions typically have much higher capital levels and hold relatively more cash and short-term investments on their balance sheets. [16]

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[13] The collapse of five corporate credit unions during the 2007–2009 financial crisis best illustrates this point. To date, credit unions have paid $4.8 billion in assessments and experienced $5.6 billion in losses in the form of contributed capital. These costs incurred during the financial crisis reduced credit union earnings and assets and, as a result, during that time may have decreased interest paid on share deposits, increased loan rates, and constrained credit union services for their members.

[14] See Appendix II for a more complete listing of efforts to scale regulations, calibrate examinations, and provide assistance designed to address the unique circumstances of smaller credit unions.

[15] As of September 30, 2014, real estate loans at credit unions with more than $50 million in assets accounted for 33.2 percent of total assets, compared to 15.8 percent at credit unions below this threshold.

[16] As of September 30, 2014, credit unions with $50 million or less in assets maintained cash and short-term investment balances at 22.9 percent of total assets, compared to 12.5 percent for credit unions above this threshold.

Revised Proposed Risk-Based Capital Rule

After reviewing 2,056 comments on the original risk-based capital proposal, last month the NCUA Board issued a revised proposed rule. NCUA's primary goals for the revised proposed risk-based capital rule remain the same:

- To prevent or mitigate losses to the Share Insurance Fund by having a better calibrated, meaningful, and more forward-looking capital requirement to ensure credit unions can continue to serve members during economic downturns without relying on Government intervention or assistance, and
- To modernize the risk-based capital calculations and framework, in accordance with the Federal Credit Union Act's directives.

The new proposal significantly narrowed the proposed rule's scope by redefining "complex" credit unions. Under this rulemaking, the NCUA Board has proposed to limit the risk-based capital requirement to credit unions with more than $100 million in assets, rather than the $50 million threshold contained in the current rule and the earlier proposal.

By increasing the asset threshold, the revised proposed rule exempts over three-quarters of credit unions. Through this targeted improvement, the revised proposed rule covers 1,455 credit unions that hold 89 percent of the system's assets.[17] In comparison, the original proposal covered 2,237 credit unions representing 94 percent of the system's assets.[18] The revised proposal also would result in the downgrade of fewer credit unions.[19]

As requested by stakeholders, including several members of the Senate Banking Committee, the revised proposed rule includes significant changes to the risk weights for investments, real estate loans, member business loans, corporate credit unions, and credit union service organizations. The risk weights contained in the new proposal are generally comparable to or more favorable than the risk weights applied to banks by Federal banking agencies.

Finally, the revised proposed rule extends the implementation date to January 1, 2019. This date aligns with the risk-based capital rule implementation deadline for banks. It also allows credit unions covered under the rule ample time to prepare for the change.

Other Regulatory Relief Proposals Under Consideration

Going forward, NCUA is already working to provide additional regulatory relief for credit unions. For example, NCUA is drafting a proposal to modernize our member business lending rule. The primary changes being considered involve removing prescriptive underwriting criteria and other outdated restrictions, thereby eliminating the need for credit unions to request waivers from NCUA to conduct business.

In April 2014, the NCUA Board also issued a proposed rule to define more clearly which associational groups do and do not qualify for membership in a Federal credit union. The proposed rule would provide automatic approval for seven types of associations. To facilitate greater access to credit union membership, commenters suggested several more categories of well-established associational groups that should also be considered for automatic approval. The Board is now carefully reviewing these suggested regulatory improvements.

NCUA is additionally working to fine-tune a proposed rule on asset securitization. Approved in June 2014, this proposal would allow qualified Federal credit unions to securitize loans they have originated under certain conditions. Once finalized, this rule would provide these Federal credit unions with greater flexibility to manage interest rate and liquidity risks.

Finally, the NCUA Board in July 2014 proposed to streamline the agency's fixed-assets rule. This proposal would eliminate the current requirement to obtain a waiver from NCUA for a Federal credit union with assets of $1 million or more that wants to make investments in fixed assets exceeding 5 percent of shares and retained earnings. The proposed rule also would make it easier for Federal credit unions to acquire property to accommodate plans for future expansions.

The NCUA Board is expected to consider a final fixed-assets rule by the end of the second quarter. This rule would allow Federal credit unions to make business

[17] Data as of December 31, 2013.

[18] Same as above.

[19] The reformulated risk-based capital proposal would downgrade the capital status of just 19 of 1,455 covered credit unions, based on data as of December 31, 2013. For more information about the revised risk-based based capital proposed rule, see *http://www.ncua.gov/Resources/Pages/risk-based-capital-resources.aspx.*

decisions on upgrading technology, updating facilities, or making other purchases without filing waivers.

Improvements in the Examination Program

Beyond providing targeted relief by issuing regulatory exemptions and adopting tailored rules, NCUA is providing regulatory relief through revisions to our examination process.

Small Credit Union Examination Program

Since 2002, NCUA has followed a risk-focused exam program. This approach is designed to efficiently allocate agency resources to credit unions and areas of operations that exhibit the greatest potential risk exposure to the Share Insurance Fund. The program relies on examiner judgment to determine the areas that need review. Over time, NCUA has adjusted this approach by adding minimum scope requirements and establishing the National Supervision Policy Manual to ensure consistency of supervisory actions across all regions of the country.

While the risk-based examination program has generally worked well, in 2011 we determined that the resources used to complete examinations were not in balance with the credit union system's risks. NCUA was spending more exam hours on the smallest credit unions rather than the largest credit unions that have the greatest concentration of the system's assets and the greatest potential risk exposure to the Share Insurance Fund.

NCUA has since moved to concentrate supervision on credit union activities that pose the most risk. In recognition that larger, more complex credit unions require more attention, NCUA began streamlining exams for the smallest credit unions and deploying examiners where their work will be most effective in protecting the Share Insurance Fund.

NCUA now has in place a streamlined examination program for financially and operationally sound credit unions with less than $30 million in assets. Through the Small Credit Union Examination Program, NCUA spends less time on average in small, well-managed credit unions. This decreased examination burden reflects a reduced overall scope but is more precisely focused on the most pertinent areas of risk in small credit unions—lending, record keeping, and internal control functions.

NCUA is now expanding the Small Credit Union Examination Program to include Federal credit unions with up to $50 million in total assets that received a composite CAMEL rating of 1, 2, or 3 at their last examination.[20] After completing training, NCUA anticipates fully implementing the new procedures by the end of the first quarter of 2015.[21]

Broader Examination Reforms

NCUA is further working to streamline the examination process for all credit unions by harnessing technology. Improvements in computers, software, and security are allowing NCUA to design a new Automated Integrated Regulatory Examination System and revise our Call Report system to improve off-site monitoring capabilities and thereby potentially reduce the overall time NCUA spends on-site inside credit unions conducting examinations.

To improve consistency in the way field staff develop and use documents of resolution, NCUA also revised our policy and procedures in 2013.[22] NCUA clarified how and when documents of resolutions should be used. The new policy states that documents of resolution should be used to address issues significant enough that a credit union's failure to correct the problem would necessitate the examiner recommending an informal or formal enforcement action. In addition, examiners must cite the appropriate law, regulation, or authoritative NCUA policy when including an issue as a finding or document of resolution in the examination report.

The result has been clearer expectations for credit unions and NCUA field staff, and greater consistency in the examination process. Credit unions generally have supported the change. As a result of these changes and an improved economy, the

[20] The CAMEL rating system is based upon an evaluation of five critical elements of a credit union's operations: Capital adequacy, Asset quality, Management, Earnings and Liquidity. The CAMEL rating system is designed to take into account and reflect all significant financial, operational and management factors that examiners assess in their evaluation of a credit union's performance and risk profile. CAMEL ratings range from 1 to 5, with 1 being the highest rating.

[21] For larger, more complex credit unions, NCUA will continue to perform risk-focused exams.

[22] Examiners use documents of resolution to outline plans and agreements reached with credit union officials to reduce areas of unacceptable risk. An area of unacceptable risk is one for which management does not have the proper structure for identifying, measuring, monitoring, controlling, and reporting risk.

agency has additionally experienced a decline in the number of documents of resolution issued.

Regulatory Relief Legislation

Finally, the Committee has asked NCUA to identify ways to ease credit union regulatory burdens through legislation.

NCUA is very appreciative of the Senate's efforts last December to enact into law the Credit Union Share Insurance Fund Parity Act and the American Savings Promotion Act.[23] The first law allows federally insured credit unions to offer the same level of insurance on deposits as banks and thrifts for lawyers' trust accounts. The second law permits federally insured financial institutions to offer prize-linked accounts to promote saving.

Looking ahead, NCUA has several proposals to share with the Committee related to regulatory flexibility, field of membership requirements, member business lending, supplemental capital, and vendor authority.

Regulatory Flexibility

Today, there is considerable diversity in scale and business models among financial institutions. As noted earlier, many credit unions are very small and operate on extremely thin margins.[24] They are challenged by unregulated or less-regulated competitors, as well as limited economies of scale. They often provide services to their members out of a commitment to offer a specific product or service, rather than a focus on any incremental financial gain.

The Federal Credit Union Act contains a number of hard-coded provisions that limit NCUA's ability to revise regulations and provide relief to such credit unions. Examples include limitations on the eligibility for credit unions to obtain supplemental capital, field of membership restrictions, curbs on investments in asset-backed securities, and the 15-year loan maturity limit, among others.[25]

To that end, NCUA would encourage Congress to consider providing regulators like NCUA with flexibility to write rules to address such situations, rather than imposing rigid requirements. Such flexibility would allow the agency to effectively limit additional regulatory burdens, consistent with safety and soundness. As previously noted, NCUA continues to modernize existing regulations with an eye toward balancing requirements appropriately with the relatively lower levels of risk smaller credit unions pose to the credit union system. By allowing NCUA discretion on scale and timing to implement new laws, we could more flexibly mitigate the cost and administrative burdens of these smaller institutions while balancing consumer and prudential priorities.

Field of Membership Requirements

The Federal Credit Union Act currently only permits Federal credit unions with multiple common-bond charters to add underserved areas to their fields of membership. We recommend that Congress act to modify the Federal Credit Union Act to give NCUA the authority to streamline field of membership changes and permit all Federal credit unions to grow their membership by adding underserved areas.

Allowing Federal credit unions that have a community or single common-bond charter the opportunity to add underserved areas would open up access for many more unbanked and underbanked households to credit union membership. This legislative change could also eventually enable more credit unions to participate in the programs offered through the congressionally established Community Development Financial Institutions Fund, thus increasing the availability of credit and savings options in distressed areas.[26]

Congress also may want to consider other field of membership statutory reforms. For example, Congress could allow Federal credit unions to serve underserved areas without also requiring those areas to be local communities. Congress may also want to simplify the "facilities" test for determining if an area is underserved.[27] NCUA

[23] P.L. 113-252 and P.L. 113-251, respectively.

[24] See Appendix III for a breakdown of credit union performance by asset class over time.

[25] 12 U.S.C. 1751 and what follows.

[26] Located within the U.S. Department of the Treasury, the Community Development Financial Institutions Fund's mission is to expand the capacity of financial institutions to provide credit, capital, and financial services to underserved populations and communities in the United States.

[27] The Federal Credit Union Act presently requires an area to be underserved by other depository institutions, based on data collected by NCUA or Federal banking agencies. NCUA has implemented this provision by requiring a facilities test to determine the relative availability of insured depository institutions within a certain area. Congress could instead allow NCUA to use alternative methods to evaluate whether an area is underserved to show although a financial

stands ready to work with the Committee on these ideas, as well as other options for adjusting field of membership requirements.

Outside of the legislative process, Chairman Matz recently established a working group to discuss existing regulatory field of membership constraints and options for ensuring the Federal credit union charter remains relevant in today's marketplace. This group is requesting candid feedback from stakeholders to help the agency identify potential regulatory or procedural changes to enable Federal credit unions to more readily promote access to populations with limited alternatives for financial services.

Member Business Lending

NCUA reiterates the agency's support for legislation to adjust the member business lending cap, such as the Small Business Lending Enhancement Act from the 113th Congress. This bill contains appropriate safeguards to ensure NCUA can protect safety and soundness as qualified credit unions gradually increase member business lending.

For federally insured credit unions, the Federal Credit Union Act limits member business loans to the lesser of 12.25 percent of assets or 1.75 times net worth, unless the credit union qualifies for a statutory exemption.[28] For smaller credit unions with the membership demand and the desire to serve the business segments of their fields of membership, the restriction makes it very difficult or impossible to successfully build a sound member business lending program. As a result, many credit unions are unable to deliver commercial lending services cost effectively, which denies small businesses in their communities access to an affordable source of credit and working capital.

These credit unions miss an opportunity to support the small business community and to provide a service alternative to the small business borrower. Small businesses are an important contributor to the local economy as providers of employment and as users and producers of goods and services. NCUA believes members that are small business owners should have full access to financial resources in the community, including credit unions, but this is often inhibited by the statutory cap on member business loans.

NCUA additionally supports the Credit Union Residential Loan Parity Act introduced in the House during the 113th Congress. This legislation addresses a statutory disparity in the treatment of certain residential loans made by banks and credit unions.

When a bank makes a loan to purchase a 1- to 4-unit, non-owner-occupied residential dwelling, the loan is classified as a residential real estate loan. If a credit union were to make the same loan, it is classified as a member business loan and therefore subject to the member business lending cap. To provide policy parity between banks and credit unions for this product, this bill would exclude such loans from the cap. The legislation also contains appropriate safeguards to ensure NCUA will apply strict underwriting and servicing standards for these loans.

Supplemental Capital

NCUA supports legislation to allow healthy and well-managed credit unions to issue supplemental capital that will count as net worth. This legislation would help protect the Share Insurance Fund by adding a new layer of capital, in addition to retained earnings, to absorb losses at credit unions.

Most Federal credit unions only have one way to raise capital—through retained earnings. Without access to other ways to raise capital, credit unions are exposed to risk when the economy falters. Financially strong and well-capitalized credit unions also may be discouraged from allowing healthy growth out of concern it will dilute their net worth ratios and trigger prompt corrective action-related supervisory actions.

A credit union's inability to raise capital outside of retained earnings limits its ability to expand into fields of membership more effectively and to offer greater options to eligible consumers. Consequently, NCUA has previously encouraged Congress to authorize healthy and well-managed credit unions, as determined by the NCUA Board, to issue supplemental capital that will count as net worth. If reintroduced in the 114th Congress, NCUA would again be supportive of the Capital Access for Small Businesses and Jobs Act.

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institution may have a presence in a community, it is not qualitatively meeting the needs of an economically distressed population.

[28] 12 U.S.C. 1757a.

Vendor Authority

Finally, and most critically, NCUA requests that the Senate Banking Committee consider legislation to provide the agency with examination and enforcement authority over third-party vendors—including credit union service organizations, or CUSOs for short. Obtaining this authority is the agency's top legislative priority.[29]

While providing important services and helping smaller credit unions achieve economies of scale, there are inherent risks in some CUSOs. Since 2008, NCUA estimates that nine CUSOs have caused more than $300 million in direct losses to the Share Insurance Fund and led to the failures of credit unions with more than $2 billion in aggregate assets. In one such example, one CUSO caused losses in 24 credit unions, some of which failed.

CUSOs provide products and services that can significantly affect financial well-being, and, in the case of technology service providers, the security of credit unions and the members they serve. During the third quarter of 2014, credit unions using the services of a CUSO accounted for $974 billion in assets or 88 percent of system assets. This figure is up from 79 percent of assets at year-end 2009.

The Government Accountability Office has noted that NCUA has a limited ability to assess the risks third-party vendors, including CUSOs, pose for credit unions and, ultimately the Share Insurance Fund, and to respond to any problems. NCUA may only examine vendors with their permission and cannot enforce any corrective actions. NCUA can merely make recommendations and present findings to each vendor's credit union clients. This lack of authority stands in contrast to Federal banking agencies and most State regulators.

NCUA's inability to oversee third-party vendors also poses a regulatory burden for credit unions, as the agency must rely on credit unions to report certain information on the vendors with which they do business. Additionally, NCUA must work through each credit union that uses third-party vendors or CUSOs to obtain material about the vendor or CUSO. This duplication of efforts creates a burden on all credit unions, particularly smaller credit unions that rely more heavily on vendors for many products and services.

A legislative fix would close a growing gap in NCUA's authority and provide some regulatory relief for credit unions. Specifically, NCUA would be able to work directly with key infrastructure vendors, including those with a cybersecurity dimension, to obtain necessary information to assess risks and deal with any problems at the source.

The need for NCUA to have vendor authority is best illustrated by the growth of cybersecurity threats, which are a major concern for the agency. The complexity of online communications is growing, as is the number and sophistication of hackers, thieves, and terrorists seeking to exploit vulnerabilities in the system. Moreover, credit unions are increasingly using third-party vendors to provide technological services, including security, and there is a greater interconnectedness among vendors.

Today, the top five technology service providers serve more than half of all federally insured credit unions representing 75 percent of the credit union system's assets. Thus, a failure of even one vendor represents potential risk to the Share Insurance Fund.

These vendors also provide an array of products and services to credit unions, and credit unions, like other small and community institutions, rely heavily on third parties to deliver services and manage technology in providing services. Credit unions often use common third-party services designed specifically for small cooperative institutions. Vendors perform functions that include online banking, transaction processing, fund transfers, and loan underwriting. Member data are being stored on these vendors' servers.

NCUA therefore needs the same authority as the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System to examine third-party vendors. To achieve this objective, NCUA has developed a legislative proposal which we believe would afford the agency the appropriate statutory authority. NCUA stands ready to work with the Committee on legislation to effectuate the necessary changes so that all credit

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[29] NCUA has two other legislative priorities. The first priority would enhance access to emergency liquidity for the credit union system by making targeted changes to the Central Liquidity Facility and expanding the agency's access to the U.S. Treasury. The second priority would permit NCUA to charge risk-based premiums for the Share Insurance Fund much like the Federal Deposit Insurance Corporation charges for the Deposit Insurance Fund. Risk-based premiums would lessen the funding burden on small credit unions, which generally pose less risk to the Share Insurance Fund.

unions can responsibly and effectively utilize the services of CUSOs and technology service providers.

Thank you again for the invitation to testify. I am happy to answer any questions.

APPENDIX I

National Credit Union Administration
Regulatory Modernization Initiative
2011–2014 Results

NCUA ACTIONS	BENEFITS
IMPROVED RULES	
Modernized Definition of "Small" Credit Unions	• Expanded NCUA's consideration of regulatory exemptions for credit unions with assets of less than $50 million, up from the previous $10 million • Exempted two-thirds of the entire credit union system from NCUA rules on risk-based net worth and interest rate risk management • Eased the compliance requirement for small credit unions to access emergency liquidity • Doubled the number of credit unions eligible for regulatory relief in future NCUA rulemakings
Eased Troubled Debt Restructurings	• Encouraged credit union loan modifications and ended manual reporting • Prevented unnecessary foreclosures • Kept more credit union members in their homes throughout the crisis
Expanded Rural Districts	• Raised potential membership for federal credit unions in rural districts from a hard cap of 200,000 residents to a sliding scale: ○ 250,000 residents or 3 percent of the state population, whichever is larger • Permitted federal credit unions to serve rural districts and Indian reservations in states experiencing extraordinary population growth, as well as in smaller states
Authorized "Plain Vanilla" Derivatives	• Encouraged qualified federal credit unions to use "plain vanilla" derivatives to reduce risks • Permitted approved federal credit unions to continue mortgage lending while offsetting interest rate risk • Protected the credit union system by providing an extra buffer against potential losses at large credit unions
Approved Treasury Inflation-Protected Securities	• Offered federal credit unions an additional investment backed by the federal government with zero credit risk • Provided returns indexed to inflation rates rather than interest rates
Established Charitable Donation Accounts	• Empowered federal credit unions to safely pool investments designed to benefit national, state, or local charities
Proposed Eliminating Fixed Assets Cap	• Eliminated federal credit unions' 5-percent cap on fixed assets • Empowered federal credit unions to make their own business decisions on purchases of land, buildings, office equipment and technology • Required federal credit unions exceeding the former cap to design a fixed assets management program (rather seeking a regulatory waiver)
Proposed Asset Securitization	• Authorized qualified federal credit unions to securitize their own assets • Offered an additional tool to manage interest rate and liquidity risks

NCUA ACTIONS	BENEFITS
STREAMLINED PROCESSES	
Low-Income Credit Union Designation	• Implemented an "opt-in" process whereby eligible credit unions can simply say "yes" to receive the low-income designation • Nearly doubled the number of low-income designations, reaching more than 2,100 credit unions serving 24 million members • Low-income credit unions are authorized by statute to expand member business lending beyond the statutory cap, obtain supplemental capital, raise non-member deposits, and apply for Community Development Revolving Loan Fund grants and loans
Blanket Waivers	• Released guidance encouraging credit unions to apply for blanket waivers for member business loans meeting certain conditions • Eliminated the requirement for many business owners to pledge personal guarantees against loans with high-value collateral based on sound underwriting principles • Blanket waivers eliminated the need for credit unions to apply for loan-by-loan waivers
Expedited Examinations	• Created an expedited exam process for well-managed credit unions with CAMEL ratings of 1, 2, or 3 and assets of less than $30 million, with program expanding to $50 million in 2015 • Enables these credit unions to dedicate more resources to serving members
ISSUED LEGAL OPINIONS	
Extended Loan Maturities	• Permitted loan maturities up to 40 years after loan modifications • Significantly reduced monthly payments for borrowers in need
Expanded Vehicle Fleets	• Modernized the definition of "fleet" from two to five vehicles for member business loans • Provided regulatory relief and expanded access to credit for small businesses and startups
Modernized Service Facilities	• Included full-service video tellers in the definition of federal credit union service facilities • Empowered federal credit unions to expand services in underserved areas without necessarily purchasing more brick-and-mortar branches
Changing Charters in Mergers	• Permitted credit unions to change charters to facilitate voluntary mergers • Retained credit union service for members of merging credit unions

APPENDIX II

Examples of Efforts to Scale Regulation and Support Small Credit Unions

Rule/Program	Description
Small Credit Union Definition	• A credit union with less than $50 million in assets is excluded from certain NCUA rules. • NCUA also must consider the specifically consider the potential regulatory burden and alternatives for small credit union in any rulemaking. • NCUA will review the small credit union definition in 2015 and then every three years. The review will keep the definition up-to-date as the system evolves.
Interest Rate Risk	• Credit unions with $50 million or less in assets are excluded.
Liquidity and Contingency Funding	• Credit unions with less than $50 million in assets must maintain a basic written liquidity policy. • Credit unions $50 million and over in assets must establish and document a contingency funding plan. • Credit unions $250 million and over in assets also must establish and document access to at least one contingent federal liquidity source.
Voluntary Liquidations Creditor Notices	• Federal credit unions with less than $1 million in assets are exempt. • Federal credit unions with less than $50 million in assets but more than $1 million in assets are required to place just one creditor notice.
Risk-Based Capital	• Credit unions with less than $50 million in assets are excluded under the existing risk-based net worth rule. The revised proposed risk-based capital rule would exempt credit unions with less than $100 million in assets.
One-on-One Consulting Services	• Credit unions with less than $50 million in assets are eligible to apply for customized consulting from NCUA.
Net Worth Restoration Plans	• Credit unions with less than $10 million in assets must receive NCUA assistance in developing Net Worth Restoration Plans, if requested.
New Credit Union Support	• Federal credit unions with less than $10 million in assets and less than 10 years in operation are eligible for NCUA consulting assistance. • Federal credit unions with less than $10 million in assets must receive NCUA assistance with business plan revisions, if requested.
Generally Accepted Accounting Principles	• Credit unions with assets under $10 million are exempted from complying with the reporting requirements of Generally Accepted Accounting Principles.
Audits	• Credit unions between $10 million to $500 million in assets may choose one of three lower-cost alternatives for their annual financial statement audits: a balance sheet audit, a report on examination of internal control over Call Reporting, or an Audit per the Supervisory Committee Guide.
Truth in Savings Act	• Non-automated credit unions with $2 million or less in assets after subtracting any non-member deposits are exempted from the Truth in Savings Act.
Operating Fees	• Federal credit unions with less than $1 million in assets are exempted from the annual operating fee that funds federal credit union regulation. • Federal credit unions with more than $1 million in assets pay annual operating fees scaled to size.
Small Credit Union Examination Program	• Operationally sound federal credit unions with less than $10 million in assets received streamlined exams averaging 40 hours. • Operationally sound federal credit unions with assets between $10 million and $30 million receive streamlined examinations averaging 65 hours.
Federally Insured, State-Chartered Credit Union Examinations	• Federally insured, state-chartered with less than $250 million in assets are generally not subject to an annual onsite NCUA examination.
Electronic Filing	• To assist in the migration to electronic filing of quarterly Call Reports, NCUA helped manual filers obtain computers and assigned an Economic Development Specialist to work with small credit unions identified as filing manually each quarter.

APPENDIX III

Historical Performance by Asset Class

	2014, Third-Quarter Median				
	Less than $10 million	$10 million to $50 million	$50 million to $100 million	$100 million to $250 million	Over $250 million
Loan Growth Rate (annual)	0.49%	1.97%	3.73%	5.65%	9.04%
Asset Growth Rate (annual)	-0.96%	0.99%	1.93%	2.97%	4.06%
Membership Growth Rate (annual)	-1.45%	-0.92%	-0.05%	1.04%	3.08%
Loan-to-Share Ratio	55.38%	55.10%	61.72%	69.21%	74.93%
Net Worth Ratio	14.04%	11.47%	10.66%	10.18%	10.48%
Return on Average Assets Ratio	0.10%	0.26%	0.42%	0.52%	0.76%
Delinquency Ratio	1.26%	0.86%	0.81%	0.77%	0.66%
Non-Interest Expenses-to-Total Assets Ratio	2.64%	2.59%	2.76%	2.76%	2.49%
Full-Time Equivalent Employees	2	7	22	46	148

	5-Year Median				
	Less than $10 million	$10 million to $50 million	$50 million to $100 million	$100 million to $250 million	Over $250 million
Loan Growth Rate (annual)	-0.60%	0.32%	1.83%	2.91%	4.85%
Asset Growth Rate (annual)	0.89%	3.25%	4.11%	4.52%	5.55%
Membership Growth Rate (annual)	-1.47%	-0.67%	0.51%	1.23%	2.79%
Loan-to-Share Ratio	55.94%	56.66%	62.74%	68.51%	71.21%
Net Worth Ratio	14.09%	11.43%	10.38%	9.95%	9.91%
Return on Average Assets Ratio	-0.05%	0.17%	0.33%	0.42%	0.67%
Delinquency Ratio	1.78%	1.14%	1.05%	1.01%	0.99%
Non-Interest Expenses-to-Total Assets Ratio	2.86%	2.79%	2.88%	2.88%	2.59%
Full-Time Equivalent Employees	2	7	21	44	138

	10-Year Median				
	Less than $10 million	$10 million to $50 million	$50 million to $100 million	$100 million to $250 million	Over $250 million
Loan Growth Rate (annual)	-0.28%	1.84%	3.64%	4.88%	6.42%
Asset Growth Rate (annual)	0.08%	3.07%	4.65%	5.33%	6.60%
Membership Growth Rate (annual)	-1.53%	-0.41%	0.58%	1.27%	2.91%
Loan-to-Share Ratio	64.02%	64.33%	69.04%	73.89%	76.92%
Net Worth Ratio	14.92%	12.35%	11.09%	10.44%	10.37%
Return on Average Assets Ratio	0.16%	0.36%	0.46%	0.51%	0.68%
Delinquency Ratio	2.05%	1.16%	1.04%	0.96%	0.90%
Non-Interest Expenses-to-Total Assets Ratio	2.93%	2.93%	3.00%	3.00%	2.67%
Full-Time Equivalent Employees	2	7	21	43	131

PREPARED STATEMENT OF CANDACE A. FRANKS

COMMISSIONER, ARKANSAS STATE BANK DEPARTMENT, ON BEHALF OF THE CONFERENCE OF STATE BANK SUPERVISORS

FEBRUARY 10, 2015

Introduction

Good morning, Chairman Shelby, Ranking Member Brown, and distinguished Members of the Committee. My name is Candace Franks. I serve as the Bank Commissioner for the State of Arkansas and I am the current Chairman of the Conference of State Bank Supervisors (CSBS). It is my pleasure to testify before you today on behalf of CSBS.

CSBS is the nationwide organization of banking regulators from all 50 States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. State banking regulators charter and supervise more than 5,000 insured depository institutions. Additionally, most State banking departments also regulate a variety of nonbank financial service providers, including mortgage lenders, mortgage servicers, and money services businesses. For more than a century, CSBS has given State supervisors a national forum to coordinate supervision of their regulated entities and to develop regulatory policy. CSBS also provides training to State banking and financial regulators and represents its members before Congress and the Federal financial regulatory agencies.

In my 35 years with the Arkansas State Bank Department, it has become abundantly clear that community banks are vital to economic development, job creation, and financial stability. I know this Committee shares my convictions, and I appreciate your efforts to examine the State of our country's community banks and regulatory approaches to smaller institutions.

State regulators have a long history of innovating to improve our regulatory and supervisory processes to better meet the needs of community banks, their customers, and our States. Because of our roles and where we fit in the broader regulatory framework, State banking departments are able to pilot programs at the local level based on our particular needs, especially in the area of bank supervision. This often leads to innovative practices bubbling up from individual States and expanding into other States. At the same time, each State has the authority to choose what works best in their local context.

This regulatory flexibility is a strength of the State banking system. After all, community banks in Arkansas might face local issues that my department should address in one manner, while another State's banking regulator might have a different set of supervisory challenges to address. The Appendix to my testimony highlights a few cases in which State regulators have proven to be particularly adept at developing and implementing flexible practices to better serve our smaller institutions. [1]

My testimony today will highlight the importance of community banks and their relationship-based business model, the shortcomings of our current community bank regulatory approach, and State regulators' vision for a new framework for community bank regulation. I will also discuss specific ways in which Congress and the Federal banking agencies can adopt right-sized policy solutions for community banks and highlight State regulators' current outreach initiatives with community banks. Finally, my testimony will discuss the States' efforts to produce new and enhanced research to promote a better understanding among policymakers about the role of community banks and the impact they have upon our local, State, and national economies and communities.

Community Banks and Relationship Lending Are Essential

The U.S. banking system is incredibly diverse, ranging from small community banks to global financial conglomerates. This diversity is not a mistake, but rather a product of our unique dual banking system. The dual banking system, consisting of State and national banks chartered by State and Federal regulators, has encouraged financial innovation and institutional diversity for more than 150 years.

Community banks are essential to the U.S. financial system and economy. The Federal Deposit Insurance Corporation (FDIC) classifies nearly 93 percent of all U.S. banks as community banks, meaning there are 6,107 community banks embed-

[1] Also see: Vice, C. "Examining the State of Small Depository Institutions". Committee on Banking, Housing, and Urban Affairs. United States Senate. September 16, 2014. Available at: *http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore__id=6e89b188-c24a-40d5-99e9-754868914674.*

ded in local communities throughout the country. [2] The defining characteristic of a community bank is its relationship-based business model—a business model that relies on the bank's knowledge of its local market, citizens, and economic conditions. Community banks are able to leverage this personal, soft data in a way that large, model-driven banks cannot. This is why community banks have an outsized role in lending to America's small businesses, holding 46 percent of the banking industry's small loans to farms and businesses while only making up 14 percent of the banking industry's assets. [3] A community banker knows the entrepreneur opening a new business around the corner. A community banker also knows the local real estate market and the homebuyer seeking a mortgage loan. These relationships allow community bankers to offer personalized solutions designed to meet the specific financial needs of the borrower.

Community banks engage in relationship lending in the largest U.S. cities and the smallest rural markets. Their role in providing credit and banking services is just as vital as the largest financial institutions. In fact, many consumers, businesses, and farms are not served particularly well by standardized, model-driven lending. This is especially the case in rural areas, where the FDIC has found that community banks are three times more likely to operate a banking office outside of a metro area than their large bank counterparts. [4]

There are more than 600 counties—or one out of every five U.S. counties—that have no physical banking offices except those operated by community banks. [5] In my home State of Arkansas, there are 96 towns served by only one physical banking location, be it a bank's main office or branch. In fact, 66 of these communities have populations with less than 1,000 people. Community banks are the financial lifeblood of these small Arkansas communities. To these parts of the country, citizens do not differentiate between community banks, regional banks, or the largest banks in the world. For these small or rural towns, the community banking system is the banking system.

Simply put, community banks are a vital part of a very diverse financial services marketplace and help ensure credit flows throughout the Nation's diverse markets. They provide credit and banking services in a flexible, innovative, and problem-solving manner, characteristics that are inherent in the community bank relationship-based business model.

The Shortcomings of Our Community Bank Regulatory Framework

State regulators believe that policymakers in Congress, the Federal banking agencies, and State banking agencies must rethink how we all approach regulating and supervising community banks. The statistics are clear—most banks are community banks that operate in local markets:

- Ninety percent of today's 6,589 banks have less than $1 billion in total assets.
- The 5,908 banks with less than $1 billion in assets hold less than 9 percent of the banking industry's total assets.
- The average community bank has $225 million in total assets, and employs 54 people on average.

On the other end of the industry spectrum, we find a very different type of bank:

- There are four U.S. banks that exceed $1 trillion in total assets, and two of these have more than $2 trillion in total assets.
- Four banks hold around 41 percent of the banking industry's total assets.
- These four institutions each average 188,100 employees.

The community bank and megabank business model are also radically different. Community banks serve local economies by tailoring their loans and financial services around the customers within their geographically limited markets. Conversely, the largest banks leverage economies of scale in order to offer standardized mortgage and consumer products across a diversity of U.S. and global markets, provide financial services to multinational corporations, and engage in extensive capital markets activity.

[2] "Quarterly Banking Profile: Third Quarter 2014". FDIC. Available at: *https://www2.fdic.gov/qbp/2014sep/qbp.pdf.*
[3] "FDIC Community Banking Study". FDIC, pp. 3–4 (December 2012). Available at: *http://www.fdic.gov/regulations/resources/cbi/study.html.*
[4] Ibid.
[5] Ibid.

These are vastly different businesses, and policymakers must regulate and supervise these financial institutions differently based on their size, complexity, overall risk profile, and risk to the financial system.

Recent regulatory reform efforts have rightfully centered on addressing the problems posed by the largest, most systemically important banks. However, there is also widespread concern among policymakers and the banking industry that many of these new rules, in addition to existing regulatory requirements, pose an undue burden for community banks. To be sure, Congress and Federal regulators have undertaken measures to provide community institutions with relief. While these regulatory relief efforts are positive, there remains a need for a more comprehensive approach based on a common and consistent definition of community banks. A quick sampling of various asset thresholds for community bank regulatory relief purposes illustrates this point:

- Federal Reserve Small Bank Holding Company (BHC) Policy Statement—Exempts BHCs with assets less than $1 billion from the consolidated BHC capital guidelines and grants them simplified reporting requirements.
- Consumer Financial Protection Bureau (CFPB) Jurisdiction—The CFPB does not have direct supervisory authority over institutions that fall below $10 billion in assets.
- CFPB Small Creditor Definition—Residential mortgage loans are granted Qualified Mortgage status if the bank has less than $2 billion in total assets.
- CFPB Balloon Loan Qualified Mortgages—Residential mortgage loans are granted Qualified Mortgage status if the bank has less than $2 billion in total assets and the institution originates 50 percent or less of its mortgages in rural or underserved areas.
- CFPB Escrow Exemptions—Banks are exempt from escrow requirements if the bank has less than $2 billion in total assets and the institution originates 50 percent or less of its mortgages in rural or underserved areas.
- Treatment of Trust Preferred Securities (TruPS) Under the Collins Amendment—Grandfathers TruPS issued before May 19, 2010, into regulatory capital for BHCs with less than $15 billion in assets.
- Home Mortgage Disclosure Act (HMDA) Reporting Criteria—Banks with less than $44 million in assets are exempt from reporting HMDA data as required under Regulation C.

State regulators are concerned that an approach to regulatory relief that relies solely or primarily on asset thresholds falls short in granting small community banks real relief from regulations designed for their larger competitors. True regulatory right-sizing for community banks will require a holistic approach.

These are vastly different businesses, and policymakers

State Regulators Support a Definitional Approach for Right-Sizing Community Bank Regulation and Supervision

Regulatory right-sizing requires a process for determining how safety and soundness and consumer protection requirements can better reflect the community banking business model. To start this process, policymakers and regulators need to know which institutions should be the focus of our regulatory right-sizing efforts. To date, a consensus definition has eluded policymakers. CSBS is confident that regulators and policymakers can more accurately define the universe of community banks and tailor laws, regulations, and supervision for these institutions.

A definitional approach would provide the necessary foundation for a more appropriate regulatory framework for community banks. The definitional approach could be used as a basis for a broad range of regulatory right-sizing initiatives. Instead of crafting specific exemptions in law or leaning on boilerplate statements like "appropriate for the size and complexity of the institution," there would be a clear process for defining a community bank. With a new process in place to identify community banks, Congress and regulators could then move forward in a holistic manner to provide regulatory and supervisory right-sizing for these institutions.

After all, the more than 6,100 institutions identified as community banks are not simply a number, but rather institutions that State regulators know, license, supervise, and work with on a regular and extensive basis. My banking department staff spends innumerable hours with community bankers in Arkansas, supervising them and helping them address today's banking challenges. This is the case for every regulatory agency at this table—we all know which institutions are in fact community banks, and we must begin to provide these institutions with real regulatory relief in a comprehensive, holistic manner.

Community banks are best identified by a set of principles that can be applied on a case-by-case basis, not by simple line drawing. CSBS is committed to getting this right, and my colleagues and I would be glad to work with Congress to create a process for community bank identification that is not solely based on asset thresholds, but takes qualitative criteria into account. For example, State regulators believe characteristics such as the following can help identify community banks:

- Operating primarily in local markets;
- Deriving funding primarily from a local market, specifically through deposits of members of the community in which it operates;
- Its primary business is lending out the deposits it collects to the community in which it predominately operates;
- The lending model is based on relationships and detailed knowledge of the community and its members, not volume-driven or automated;
- Focusing on providing high-quality and comprehensive banking services; and
- Locally based corporate governance.

Based on criteria such as these, I am confident we can identify the universe of community banks. This will provide the necessary framework for policymakers to move forward in a purposeful manner, designing statutes and regulations that are consistent with and foster a diverse economy and financial system.

Specific Areas for Community Bank Regulatory Relief

As the effort to address regulatory burden has evolved over the last several years, State regulators have worked to identify specific recommendations that we believe would be meaningful for community banks. While these areas help to illustrate the inappropriate application of regulation and negative effect on community banks, the definitional approach presented earlier in this testimony would provide a foundation to address many of these issues. For State regulators, the objective is not necessarily less regulation, it is regulation and supervision that reflects and appreciates the community banking business model. The following represent specific actions that Congress and the Federal banking agencies can undertake to promote right-sized regulations for community banks.

Study Risk-Based Capital for Smaller Institutions

The Basel Committee on Banking Supervision designed risk-based capital standards for internationally active banks. These standards are overly complex and inappropriate for community banks and their business model. Indeed, research presented at the Community Bank Research Conference has shown that a simple leverage requirement would be equally, if not more, effective than risk-based capital requirements for community banks, and would be much less burdensome. [6]

Congress should mandate the U.S. Government Accountability Office (GAO) investigate the value and utility of risk-based capital for smaller institutions. The resulting GAO study should seek to understand how risk weights drive behavior in the volume and type of credit a bank originates, as well as the burden of providing the necessary data for calculating capital ratios.

Mortgage Rules Should Better Reflect the Realities of Community Bank Portfolio Lending

Community banks that hold the full risk of default of a loan are fully incented to determine the borrower's repayment ability. Laws and regulations regarding mortgage lending should reflect this reality.

Qualified Mortgage Status for Mortgages Held in Portfolio

When a community bank makes a mortgage and holds that loan in portfolio, the interests of the bank and the borrower are inherently aligned, furthering the objective of safe and sound business practices that protect consumers. Yet, a national community bank survey and community bank town hall meetings conducted in conjunction with the 2014 Community Banking in the 21st Century research conference point to a problem: while many community banks' existing mortgage businesses are consistent with the Ability-to-Repay (ATR) and Qualified Mortgage (QM) requirements, complying with the regulations is not only creating an outsized regulatory burden but also curtailing lending. One solution that would tailor the requirement to the nature of community bank mortgage lending is to grant the QM liability safe

[6] Moore, R., and M. Seamans. "Capital Regulation at Community Banks: Lessons From 400 Failures". Available at: *https://www.stlouisfed.org//media/Files/PDFs/Banking/CBRC-2013/Capital__Regulation__at__Community__Banks.pdf.*

harbor to all mortgage loans held in portfolio by a community bank. Congress explored this issue through hearings and CSBS-supported legislation during the 113th Congress. We encourage this Congress to pursue similar legislation to promote portfolio lending by community banks.

Improving the CFPB's Rural Designation Process

The Dodd-Frank Act's ATR requirement's restrictions on balloon loans and the CFPB's efforts to provide limited relief for balloon loans made by smaller institutions in rural areas illustrate the need for regulatory right-sizing and for a conscious effort to understand and adapt regulation to the community bank business model. When used responsibly, balloon loans are a useful source of credit for borrowers in all areas. Properly underwritten balloon loans are tailored to the needs and circumstances of the borrower, including situations where the borrower or property is otherwise ineligible for standard mortgage products. Because banks can restructure the terms of a balloon loan more easily than an adjustable rate mortgage, they are able to offer the borrower more options for affordable monthly payments, especially in a rising interest rate environment.

As a regulator, I prefer that lenders and borrowers in my State have flexibility and options when selecting consumer products and mortgages. Since the mortgage is held in portfolio, community banks must work to ensure that the product is tailored to take into consideration all risks associated with the credit in order to avoid default.

Community banks retain balloon mortgages in portfolio as a means of offering credit to individuals that do not fit a standard product but nonetheless can meet the monthly mortgage obligation. That is the logic behind the Dodd-Frank Act provision providing balloon loans with QM status if those loans are originated in rural or underserved areas by a small creditor. However, the CFPB's original approach to identifying such areas relied solely on the Department of Agriculture's Urban Influence Codes, producing many illogical and problematic outcomes for community banks.

CSBS raised this concern shortly after the original rule was proposed, and we worked with Congress to develop a petition process for interested parties to seek rural designation. We applaud Congress for its focus on this issue, and we appreciate the CFPB's recent efforts to improve its rural and underserved designation framework by adding rural census blocks as defined by the U.S. Census Bureau.

More fundamentally, portfolio lending is not a "rural" issue or an "underserved" issue; it is a relationship-based lending issue for all community banks. Eliminating the rural or underserved balloon loan limitations for qualified mortgages would go a long way in expanding the CFPB's Small Creditor QM framework to include all loans held in portfolio by community banks. Similarly, removing the rural or underserved requirements from the exception to mandatory escrow requirements for higher-priced loans would make right-sized regulations business model focused, not geographically focused.

Tailor Appraiser Qualifications for 1–4 Family Loans Held in Portfolio

Current appraisal regulations can curtail mortgage lending in markets that lack qualified appraisers or comparable sales. Congress should require regulations to accommodate portfolio loans for owner-occupied 1–4 family loans, recognizing the lender's proximity to the market and the inherent challenge in securing an accurate appraisal by a qualified appraiser.

Community Bank Fair Lending Supervision Must Acknowledge the Business Model and Be Applied Consistently

State regulators take the difficulties that many underserved borrowers have had in obtaining access to fair credit very seriously, especially in regards to mortgage lending and home ownership. State regulators are committed to enforcing institutions' compliance with the letter and spirit of our fair lending laws, but we are concerned about regulators' overreliance on opaque statistical models that use small samples to judge fair lending performance and inconsistencies in Federal regulators' approach to fair lending supervision. Many times it is not the statute that creates the problem, but the interpretation, guidance, and the examination techniques utilized. Federal agency leadership must commit to a more pragmatic and transparent approach to fair lending supervision.

Federal regulators should not use one-size-fits-all techniques and tools on community banks in fair lending examinations. A smaller institution makes case-by-case lending decisions based on local knowledge and local relationships. While statistical analysis plays a role in fair lending supervision, it is not the beginning and end of the analysis. Supervisors must utilize their flexibility to look beyond statistical models to take a more holistic view of the lending decision.

Despite assurances of consistent approaches from "headquarters" to "the field" and of continued collaboration to ensure consistency, State regulators have observed meaningful differences in how the three Federal banking agencies treat community banks on fair lending issues and as well as a disconnect within the individual agencies. Federal agency leadership has the responsibility to make sure this is not the case, and they must be accountable for ensuring transparency and consistency.

The current approach to fair lending for community banks is having a chilling effect on credit availability, as banks, frustrated by the examination process, are curtailing or exiting consumer credit products. From a public policy perspective, we should want community banks doing this business. If there were only 66 banks that had compliance or Community Reinvestment Act problems in 2013,[7] and referrals to the Department of Justice are minimal, why are banks experiencing such in-depth and extensive reviews?

The Application Process for Community Banks Must Reflect the Business Model

Community bank applications submitted to Federal banking agencies for transactions such as mergers and capital investments can take an extended time to process because the agencies have to ensure the decision will not establish a precedent that could be exploited by larger institutions. The approval of a merger, acquisition, or expansion of activities should be related to the overall size and complexity of the transaction, and community banks should not be unnecessarily penalized for the potential action of larger financial institutions. Federal law, an agency rule, or a clause in an approval letter could provide the necessary protection by stating that application decisions for community banks do not establish a precedent for systemically important financial institutions.

To further address the length of time the agencies take to review community bank applications, the application review and approval process for a defined subset of community institutions should be decentralized with more final decision-making authority given to FDIC Regional Offices and the regional Federal Reserve Banks.

Federal Regulatory Agency Leadership and State Supervisory Representation

A key to the success of the dual banking system is robust coordination among regulators. Meaningful coordination in regulation and supervision means diversity at the highest governance levels at the Federal regulatory agencies. The current FDIC Board does not include an individual with State regulatory experience as required by law.[8] The Federal Deposit Insurance (FDI) Act and congressional intent clearly require that the FDIC Board must include an individual who has worked as a State official responsible for bank supervision. As the chartering authority for more than 76 percent of all banks in the United States, State regulators bring an important regulatory perspective that reflects the realities of local economies and credit markets. State regulators were pleased to see bipartisan legislation introduced last Congress in the Senate and the House that refined the language of the FDI Act to ensure that Congress' intent is met and that the FDIC Board includes an individual who has worked in State government as a banking regulator. We hope to see this proposal reintroduced this Congress.

We thank Congress for its efforts to require community bank or community bank supervisory representation on the Federal Reserve Board of Governors (the Board) through the Terrorism Risk Insurance Program Reauthorization Act of 2014. In 2013, CSBS released a white paper[9] on the composition of the Board of Governors and an infographic[10] that illustrates the background and experience of the members of the Board of Governors throughout the Board's history. The white paper highlights two key trends: Congress' continuing efforts to ensure the Board's composition is representative of the country's economic diversity, and the Board's expanding supervisory role. The infographic illustrates the growing trend of naming academics to the Board. Passage of Senator Vitter's provision reinforces Congress' consistent intent to bring together a range of perspectives on the Board, and reaffirms the important role of community banks in the financial marketplace.

Practical Privacy Policy Notice Requirements

State regulators firmly believe that financial institutions have an affirmative and continuing obligation to respect customer privacy. However, there are commonsense

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[7] "FDIC Annual Report 2013". FDIC. Available at: *https://www.fdic.gov/about/strategic/report/2013annualreport/AR13section1.pdf.*

[8] 12 U.S.C. §1812(a)(1)(C).

[9] "The Composition of the Federal Reserve Board of Governors". CSBS. Available at: *http://www.csbs.org/news/csbswhitepapers/Documents/Final CSBS White Paper on Federal Reserve Board Composition (Oct 23 2013).pdf.*

[10] Available at: *http://goo.gl/eCKVrS.*

practices for communicating privacy policies. If a bank's privacy policy does not change, the bank should not be required to repeatedly inform customers of the policy. Redundant notifications are costly and limit the effectiveness of important privacy communications with customers. Accordingly, CSBS supports any commonsense fix to the Gramm-Leach-Bliley Act that exempts financial institutions from mandatory annual privacy policy mailings if the institution's privacy policy does not change.

State Regulators Are Engaging Community Banks

State regulators regularly and actively engage with community banks to try to reduce regulatory burden and to help meet the pressing needs these institutions face. State regulators are currently working to facilitate the Economic Growth and Regulatory Paperwork Reduction Act process. We are providing guidance to and conducting outreach with community banks to help them navigate cybersecurity threats.

Economic Growth and Regulatory Paperwork Reduction Act

The Federal Financial Institutions Examination Council (FFIEC) allows State regulators and our Federal counterparts to better coordinate bank supervision, which helps reduce the supervisory burden for community institutions. State regulators are involved in the FFIEC through the State Liaison Committee, which is currently chaired by Massachusetts Banking Commissioner David Cotney.

One of the FFIEC's current major projects is the review of banking regulations mandated by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA). [11] State regulators, through our presence on the FFIEC, are committed to using this review as an opportunity to pinpoint regulations that may not be properly suited to the business model of community banks. We are excited to participate in this process through the FFIEC with our Federal colleagues at the FDIC, Federal Reserve Board, and the Office of the Comptroller of the Currency.

State regulators are attending and participating in the regional outreach events. I am particularly pleased that there will be an event later this year focused on rural banks. Additionally, the feedback received during the outreach events and through the ongoing comment process will provide important input to the State Liaison Committee and State regulators as a whole as we continue to seek ways to minimize duplicative regulation and to make supervision of State-chartered banks more efficient.

The FFIEC and Federal regulatory agencies are contributing significant time and resources to ensure the EGRPRA process is a fruitful endeavor. The Federal regulators' commitment to this effort is evidenced by the attendance of Comptroller Curry, Federal Reserve Governor Powell, and FDIC Chairman Gruenberg at EGRPRA outreach meetings throughout the country. Their commitment shows that this will not merely be a check-the-box exercise, but a meaningful process of reducing regulatory burden.

While the comment process and outreach events have just begun, they are already yielding meaningful areas for us to consider changes, including burdens associated with the quarterly call report, other regulatory filings, and Bank Secrecy Act compliance. The industry is also building a reasonable case for extending the examination cycle for certain institutions. We also greatly appreciate Comptroller Curry's comments that there are changes we can start making now before we complete the EGRPRA process.

Executive Leadership of Cybersecurity

We appreciate Congress' ongoing efforts to address cybersecurity challenges. Cybersecurity is a national priority, and State regulators are fully engaging community banks on this vital issue. The persistent threat of cyber attacks is a widespread problem facing all industries, especially the financial services industry. Through regular dialogue with our State-chartered financial institutions, State regulators have learned that the issue of cybersecurity can be daunting for small bank executives who often have limited resources and assets to dedicate to cybersecurity.

State regulators have heard from small bank executives that while they understand the harm cyber attacks can cause to their financial institutions, the abundance of information available on cybersecurity is overwhelming and largely technical, making many bankers uncertain as to what information applies to their particular institution. This feedback from State-chartered banks prompted State regulators, through CSBS, to launch the Executive Leadership of Cybersecurity (ELOC)

[11] 12 U.S.C. §3311.

initiative in 2014.[12] The ELOC program seeks to raise awareness among bank CEOs that managing an institution's cybersecurity risks is not just a "back office" issue, but also an executive and board level issue. ELOC is part of a larger State and Federal effort to help combat the threat of cyber attacks in the financial services sector.

With the launch of the ELOC initiative, CSBS established a cybersecurity resources Web page that, for over a period of 9 weeks, served as a key resource for bank executives to receive comprehensive, nontechnical, and easy-to-read information on cybersecurity tailored to community bank CEOs. By the conclusion of the Web campaign, more than 500 community bankers had signed up to receive CSBS's exclusive "Cyber 101: A Resource Guide for Bank Executives", a resource guide that compiles recognized industry standards for cybersecurity and financial services industry best practices into one document. The ELOC Web campaign and resource guide provided community bank executives with the knowledge and necessary tools to better understand cyberthreats at their institutions, better prepare for and protect against cyberthreats, and to better understand their role as bank executives in managing cybersecurity risks at their banks.

The high level of community banker interest in the ELOC initiative sent a strong message to State regulators that community banks are looking for more leadership and clear guidance on how to address cybersecurity risks at their institutions. To that end, CSBS has made cybersecurity one of its highest priorities. In addition to the ELOC Web site and the cyber resource guide, CSBS will be working with State banking departments to host a series of cybersecurity industry outreach events throughout 2015. My department will take part in hosting one of these events in Arkansas this year.

These examples demonstrate the willingness of State regulators to seek innovative solutions and methods to provide comprehensive and effective supervision, while tailoring our efforts to the business models of banks. Banks should be in the business of supporting their communities. We are working to enact supervision that ensures safety and soundness and consumer protection, while allowing State-chartered banks to serve their customers most effectively and contribute to the success of our local communities, our States, and our Nation.

The Need for Robust Community Bank Research

State regulators recognize that designing a right-sized regulatory framework requires us to truly understand the state of community banking, the issues community banks face, and the nuances within the community banking industry. Data-driven and independently developed research on community banks is sorely lacking when compared to the breadth of research dedicated to the largest financial institutions. To address the need for research focused on community banks, State regulators, through CSBS, have partnered with the Federal Reserve to conduct the annual Community Banking in the 21st Century research conference.[13] Bringing together State and Federal regulators, industry experts, community bankers, and academics, the research conference provides valuable data, statistics, and analysis about community banking. Our hope is that community bank research will inform legislative and regulatory proposals and appropriate supervisory practices, and will add a new dimension to the dialogue between the industry and regulators.

The research conference represents an innovative approach to research. The industry informs many of the themes studied, providing their perspective on issues through a national survey and local town hall meetings. At the same time, academics explore issues raised by the industry in a neutral, empirical manner, while also contributing their own independent research topics. This approach ensures that three research elements—quantitative survey data, qualitative town hall findings, and independent academic research—all enhance and refine one another, year after year. The research conference's early success underscores the interest and need for community bank research: in 2014, more than 1,000 community bankers participated in the national survey, more than 1,300 bankers attended local town hall meetings, and more than 37 research papers were submitted by academics for consideration, a considerable increase from the number of papers submitted for the inaugural 2013 conference.

I would like to share some of the findings we have gathered through our community bank research conferences from academic research, the national survey of community banks, and our town hall meetings with community banks. I would also like

[12] "Executive Leadership of Cybersecurity". CSBS. Available at: *http://www.csbs.org/cybersecurity*.

[13] "Community Banking in the 21st Century". Federal Reserve System/CSBS. Available at: *https://www.stlouisfed.org/banking/community-banking-conference-2014/*.

to illustrate how our holistic approach to research can lead to better policy outcomes for community banks.

Academic Research on Community Banks

While there have only been two community bank research conferences thus far, we have already benefited from valuable data and research findings that show the importance of community banks and the centrality of their relationship-based lending model. For example, we now know that community bank failures lead to measurable economic underperformance in local markets.[14] Research also shows that the closer a business customer is to a community bank, the more likely the start-up borrower is to receive a loan.[15] Community banks also have a key advantage through "social capital," which supports well-informed financial transactions. This so called "social capital" is the basis for relationship lending and exists because community bankers live and work in the same communities that their banks do business. The success of the community bank is tied directly to the success of consumers and businesses in those communities. This is especially true in rural areas, where the community bank relationship-based lending model results in lower default rates on U.S. Small Business Administration loans than their urban counterparts.[16]

We are also discovering the extent to which governmental policies can impact community banks. For example, research shows that more than 80 percent of community banks have reported a greater than 5 percent increase in compliance costs since the passage of the Dodd-Frank Act.[17] Research has also informed us that the Federal banking agencies' appeals processes are seldom used, inconsistent across agencies, and at times dysfunctional.[18] We can also see that macroprudential regulation can have a meaningful impact on bank behavior, but that it may also cause unintended consequences.[19] We hope that findings like these will inform policymakers' work designing a right-sized policy framework for community banks.

National Survey of Community Banks

The community banker survey we conducted as part of the research conference provides us with crucial information straight from the industry.[20] For example, bankers have been very vocal about the compliance burdens associated with the new Ability-to-Repay and Qualified Mortgage rules. Our research finds that community banks continue to see residential mortgage lending as a meaningful business opportunity, but have a mixed view of making non-QM loans, with 26 percent of respondents indicating that they would not originate non-QM loans and an additional 33 percent only originating non-QM on an exception basis. Assessing the new ATR and QM mortgage standards against existing loans, 67 percent of bankers identified a low level of nonconformance, suggesting the two rules generally align with existing bank practices.

Community banks have long voiced concerns about increasing regulatory compliance costs, but these costs have been difficult to quantify historically. To encourage additional data and research in this area, the national survey sought to identify how increased compliance costs are realized in community banks' operations. Survey data show that rising compliance costs primarily take the shape of spending additional time on compliance, hiring additional compliance personnel, and increasing reliance on third-party vendors.

The survey also showed us that less than a quarter of respondents plan to add new products and services in the next 3 years. We must take this as an important

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[14] Kandrac, J. "Bank Failure, Relationship Lending, and Local Economic Performance". Available at: *https://www.stlouisfed.org//media/Files/PDFs/Banking/CBRC-2013/Kandrac_BankFailure_CBRC2013.pdf.*

[15] Lee, Y., and S. Williams. "Do Community Banks Play a Role in New Firms' Access to Credit?" Available at: *https://www.stlouisfed.org//media/Files/PDFs/Banking/CBRC-2013/Lee_Williams.pdf.*

[16] DeYoung, R., et al. "Small Business Lending and Social Capital: Are Rural Relationship Different?" Available at: *https://www.stlouisfed.org//media/Files/PDFs/Banking/CBRC-2013/DGNS_2012_SBA_lending.pdf.*

[17] Peirce, H., I. Robinson, and T. Stratmann. "How Are Small Banks Faring Under Dodd-Frank?" Available at: *https://www.stlouisfed.org//media/Files/PDFs/Banking/CBRC-2014/SESSION3_Peirce_Robinson_Stratmann.pdf.*

[18] Hill, J. "When Bank Examiners Get It Wrong: Financial Institution Appeals of Material Supervisory Determinations". Available at: *https://www.stlouisfed.org//media/Files/PDFs/Banking/CBRC-2014/SESSION2_AndersonHill.pdf.*

[19] Bassett, W., and W. Marsh. "Assessing Targeted Macroprudential Financial Regulation: The Case of the 2006 Commercial Real Estate Guidance for Banks". Available at: *https://www.stlouisfed.org//media/Files/PDFs/Banking/CBRC-2014/SESSION2_Bassett_Marsh.pdf.*

[20] The survey data is available at: *https://www.stlouisfed.org/bank-supervision/2014-community-banking-conference/2014-survey-data.*

red flag. Any industry that is not in a position to innovate while the world around it is innovating has questionable long-term viability.

Community Banker Town Hall Meetings

Community bankers in the town hall meetings were quite clear: the ATR and QM mortgage rules have required banks to make significant operational changes in order to comply. These changes have increased the cost of origination, the cost to the consumer, and have reduced the number of loans a bank can make.

Bankers also indicated that compliance burdens and security concerns are significant headwinds to launching new products and innovation. Similarly, bankers expressed that new regulations have changed how they approach serving their customers, shifting their mentality away from creating flexible products for customers and towards what regulations allow them to do.

Holistic Research Can Lead to Better Policy Outcomes

Looking at these research conference findings together should cause policymakers to ask serious questions about our approach to regulating community banks. In the context of the ATR and QM mortgage rules, if new requirements are generally consistent with most community banks' practices, should implementation of these rules result in increased costs and a reduction in credit availability? When we think about community banking products, should regulatory compliance burdens inhibit community banks from offering innovative products to their customers? These are not outcomes any policymaker should want, and we must be responsive to what the industry and empirical research are both telling us.

More importantly, this information can lead policymakers to better policy outcomes, if we let it. We are seeing more clearly the role and value that community banks play in our economies. This should inform and inspire us to not establish broad asset thresholds out of political pressure, but to craft a meaningful regulatory framework for a community banking business model that provides real value and presents limited risk to the financial system.

The 2015 Community Banking in the 21st Century research conference will be held this fall at the Federal Reserve Bank of St. Louis. We are pleased that Chair Yellen is planning on attending and addressing the conference. We have already issued a call for research papers and are planning our national survey and town hall events. State regulators have been encouraged by the overwhelming demand for this conference. We have been pleased at the growing response to the call for papers over the past 2 years and expect the response and interest in the conference to continue to grow.

Moving Forward

Congress, Federal regulators, and State regulators must focus on establishing a new policymaking approach for community banks. We must do so by moving away from an inconsistent, piecemeal regulatory relief strategy that uses hard asset thresholds. We will need a new definitional framework based upon the easily identifiable attributes of a community bank. Only then will we be able to provide community banks with a regulatory framework that effectively complements and supervises their unique relationship-based lending model.

Policymakers are capable of right-sizing regulations for these indispensable institutions, but we must act now to ensure their long-term viability. CSBS remains prepared to work with members of Congress and our Federal counterparts to build a new right-sized framework for community banks that promotes our common goals of safety and soundness and consumer protection.

Thank you again for the opportunity to testify today, and I look forward to answering any questions you have.

Appendix

This Appendix highlights just a few cases in which State regulators have proven to be particularly adept at developing and implementing flexible practices to better serve our smaller institutions. Some of these examples are broad, historic initiatives that have significantly shaped the trajectory of U.S. banking regulation and supervision, such as the joint and coordinated bank examination framework. Other examples provide local snapshots highlighting the flexibility that individual States exercise on a regular basis. The significance that these are State-based solutions cannot be understated. States have the dexterity to experiment with supervisory processes in ways that the Federal Government cannot without applying sweeping changes to the entire industry. This is by design and a trademark of our dual banking system. As States develop these practices, CSBS has developed several vehicles for States to share techniques and best practices with one another, allowing for the speedy deployment of successful models nationwide and maximizing regulatory efficiency.

Joint Examinations of Multicharter Holding Companies

Joint bank examinations trace their roots back more than two decades, when due to interstate branching restrictions, bank holding companies would often own independently chartered banks in different States. To improve regulatory efficiency, State banking agencies began conducting joint examinations of multicharter holding companies with other State regulators.

Before the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal), States like Iowa and Indiana were already coordinating with other State banking regulators to conduct joint State examinations for multicharter holding companies. This approach eliminated regulatory duplication, reduced the regulatory burden on the individual banks and the holding company, and helped the regulators develop a holistic view of the entire holding company. Once Riegle-Neal was passed, States built upon their existing practices in order to coordinate with Federal supervisors, crafting examination plans across State and agency lines. In 1996, the States formalized cooperative and coordination agreements, the Nationwide Cooperative Agreement [21] and Nationwide State–Federal Supervisory Agreement, [22] to facilitate the supervision of multistate banks and to define the nature of State–Federal supervision. These agreements set up a model centered on the examination team of the holding company or lead institution and, while close to 20 years old, still form the basis for State–Federal supervisory interaction. These agreements foster effective coordination and communication among regulators and have led to a supervisory model that reduces burden and enhances responsiveness to local needs and interests in an interstate banking and branching environment.

This process ultimately leads to a more consistent examination experience for these community institutions. Rather than the holding company having to handle numerous examinations throughout the year, regulators conduct coordinated examinations of all the holding company's institutions at the same time, satisfying State and Federal supervisory requirements in a streamlined manner.

This is just one of many illustrations of how State regulatory agencies have shown great flexibility and willingness to reduce burden for their State-chartered institutions, all while maintaining the same level of effective oversight.

Arkansas Self-Examination Program

A State-specific example of regulatory innovation can be found in my own department. The Arkansas Self-Examination Program serves both as an off-site monitoring program and an effective loan review report for bank management. Since its introduction in 1986, the program has created significant regulatory efficiencies and benefits to participating community banks.

When an Arkansas bank volunteers to participate in the Self-Examination Program, it provides the Arkansas State Bank Department with roughly three pages of financial information each month. We use this information to spot problem areas and trends that may threaten the bank's safety and soundness. In exchange for this data, we provide participating institutions with reports that reflect the bank's month-by-month performance, a performance comparison with peer institutions, and early warnings that flag issues of concern. Both the information provided by the banks and reports generated by my staff remain confidential. While the program is not a replacement for examinations, it is an excellent supplement that benefits our agency and the bank.

Although the program is optional, the participation rate of Arkansas banks typically exceeds 90 percent. By creating a simple, direct, and valuable tool for community banks, we can better protect consumers and the marketplace and ensure the continuing success of our State's financial institutions.

Central Point of Contact

Many State banking departments follow the practice of assigning a single individual as a central point of contact to specific institutions to conduct ongoing off-site surveillance and monitoring. The off-site portion of this process promotes efficient and effective State supervision, allowing examiners to carry out their work away from the bank, freeing up bankers' time and office space. At the same time, central points of contact also provide banks with a single person to turn to when they have supervisory questions and issues, ensuring a more direct, faster response to their needs.

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[21] Nationwide Cooperative Agreement (Revised 1997). Available at: *http://www.csbs.org/regulatory/Cooperative-Agreements/Documents/nationwide_coop_agrmnt.pdf.*

[22] Nationwide State/Federal Supervisory Agreement (1996). Available at: *http://www.csbs.org/regulatory/Cooperative-Agreements/Documents/nationwide_state_fed_supervisory_agrmnt.pdf.*

CSBS Loan Scoping Job Aid

In addition to coordination with the industry to make supervision more efficient, State regulators are increasingly turning to technology to enhance and streamline supervision. In 2012, CSBS published a Loan Scoping Job Aid (job aid) for examiners that encourages State regulators to consider institution-specific criteria that may lead to a smaller, yet more effective, loan review methodology.[23] Loan review is the cornerstone of safety and soundness examinations, providing examiners the best avenue for determining a bank's health. The CSBS job aid provides methods for examiners to improve their loan scope by reviewing a different sample of loans than would otherwise be the case. This more thoughtful, risk-focused, yet surgical approach will help regulators identify new risks and provide community banks with more meaningful and useful examination results.

[23] Available at: *http://www.csbs.org/regulatory/resources/Pages/JobAids.aspx.*

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN SHELBY FROM DOREEN R. EBERLEY

Q.1. According to the OCC, the Federal banking agencies have agreed to undertake a comprehensive review of all Call Report items and schedules. When will this review be completed? Who from your agency is in charge of this review? Will this review result in a formal, publicly available report?

A.1. At the December 2014 meeting of the Federal Financial Institutions Examination Council, Council members directed the Council's Task Force on Reports to undertake certain actions to address concerns raised by bankers about the burden of preparing the Consolidated Reports of Condition and Income (Call Report). This formal initiative is intended to identify potential opportunities to reduce burden associated with the Call Report requirements for community banks. The comprehensive review of all Call Report items and schedules is one of the actions under this initiative.

Section 604 of the Financial Services Regulatory Relief Act of 2006 requires the Federal banking agencies to "review the information and schedules that are required to be filed by an insured depository institution" in the Call Report. The deadline for the next statutorily mandated review is the fourth quarter of 2017. The Task Force on Reports and the agencies have accelerated the start of this review of the existing Call Report items and schedules to 2015. This review is planned for completion by the fourth quarter 2017 statutory deadline.

In conducting the comprehensive review, the Task Force on Reports and the agencies will require Call Report users at the Council's member entities to provide more robust justifications for Call Report items than in previous reviews. Users would need to explain how they use each data item, the frequency with which it is needed, and the population of institutions from which it is needed. Data items or schedules for which users provide insufficient justification for continued collection from some or all institutions in all four quarters would be candidates for elimination, less frequent collection, or the creation of a new or an upward revision of an existing reporting threshold, which can be size and/or activity-based. Call Report schedules would be prioritized for review over the next 2 years based on their perceived burden.

Mr. Robert Storch, Chief Accountant, Division of Risk Management Supervision, is in charge of the review for the FDIC. A formal, publicly available report on the results of the comprehensive review of the Call Report is not currently planned. However, the Federal banking agencies will publicly propose to implement burden-reducing Call Report changes identified as a result of this review in joint *Federal Register* notices that will be issued for comment in accordance with the Paperwork Reduction Act. Burden-reducing Call Report changes identified as a result of this review would be proposed on a flow basis annually as they are identified rather than waiting until the completion of the entire comprehensive review.

Q.2. Kansas Fed President, Esther George, said at a 2014 conference that the community bank "business model is one in which the incentives of banks are aligned with outcomes that benefit their customers and the economy. When incentives are aligned in this way, the need for an 'ability to repay rule,' for example, seems unnecessary."

Do you agree that banks that hold mortgages on portfolio have a vested interest to perform an analysis of a customer's ability to repay irrespective of whether such mortgage meets the requirements of a "Qualified Mortgage"?

A.2. Analyzing a borrower's ability to repay a loan is a longstanding, fundamental tenet of safe and sound underwriting that also is in the best interest of the borrower. This is true in residential, commercial, consumer, and other lending. The Ability-to-Repay/Qualified Mortgage rule (ATR/QM) is consistent with this important principle. When originating mortgages, FDIC-supervised institutions have traditionally established borrowers' ability to repay loans, and we are finding that they are continuing to meet this standard in the normal course of their business.

Meeting the requirements of the current regulation is consistent with how community banks do business. Indeed, we are hearing anecdotally that most of our institutions are meeting the QM standard as well. As you may know, the CFPB recently proposed to expand the definition of small and rural creditors. This will make it easier for a larger number of lenders to meet the more flexible standards that apply to these creditors and loans. Indeed, if finalized as proposed, the new rule would allow most FDIC-supervised institutions to originate mortgages consistent with QM standards nearly without limit, as long as those mortgages are held in portfolio.

Q.3. Do you agree that mortgages held on portfolio should be afforded a "Qualified Mortgage" status? If not, why not?

A.3. QM status involves important safeguards for lenders, borrowers, and the financial system, including product requirements that encompass basic underwriting standards and protections against products that proved to be particularly risky in the crisis, such as option ARMs, negatively amortizing loans, and certain balloon loans. Extending safe harbor status to such risky products that performed so poorly in recent years, even if they were held in a bank's portfolio, would raise significant policy concerns.

Most community banks meet the current definition of "small creditor," so they can take advantage of an exception that allows them to make balloon loans, as long as they meet the other product requirements and hold the loan in their portfolios. This exception is particularly important to small and rural banks that are more likely than larger banks to originate balloon loans, and the recent proposal to expand the universe of small and rural creditors could result in even more lenders taking advantage of the balloon loan exception.

Q.4. The OCC acknowledged in its testimony that the Volcker Rule contains no exemption for community bank, and that the regulatory burden is not justified by the risk these institutions present. The OCC has drafted a legislative proposal to exempt from the Volcker Rule banks with total consolidated assets of $10 billion or less.

Do you support exempting from the Volcker Rule banks with total consolidated assets of $10 billion or less? Do you support OCC's proposal? If not, why not?

If you believe that the $10 billion threshold for an exemption from the Volcker rule is not appropriate, what threshold or other criteria would be more appropriate to use as the basis for the exemption?

A.4. The idea underlying the Volcker Rule is that the Federal banking safety net should not, as a general rule, be used to support proprietary trading activities and investments in hedge funds and private equity. As a practical matter, community banks generally do not engage in proprietary trading, although a few community banks hold exposures to covered funds that would be prohibited by the Volcker Rule. Safety and soundness considerations would support the idea that community banks should remain disengaged from the practice of proprietary trading and that the few that do hold covered funds dispose of these high-risk exposures by the end of the Volcker Rule conformance period, including any extensions of the conformance period that may be granted by the Federal Reserve Board under their authority provided by the Volcker Rule.

In adopting the implementing regulations for the Volcker Rule, the FDIC along with the other agencies recognized that while the requirements of the implementing statute apply to all banking entities regardless of size, larger banks generally conduct the covered activities. Accordingly, the agencies designed the Volcker Rule to reduce the burden placed on banks that do not engage in proprietary trading activities or only have limited exposure to fund investments.

Under the Volcker Rule, a bank is exempt from all of the compliance program requirements and all of the associated costs, if it limits its covered activities to those that are excluded from the definition of proprietary trading. This exemption applies to the vast majority of community banks. For community banks that have less than $10 billion in assets but do engage in activities covered by the Volcker Rule, compliance program requirements can be met by simply including references to the relevant portions of the rule within the banks' existing policies and procedures. This should significantly reduce the compliance burden on smaller banks that may engage in a limited amount of covered activities.

If the agencies' experience in implementing the Volcker Rule shows that there is undue burden placed on community banks by even the minimal compliance requirements under the implementing regulations, we believe there is authority under the current statute to modify the regulation as appropriate.

Q.5. The OCC also recommended increasing the asset-size threshold from $500 million to $750 million to determine whether a community bank can qualify for an examination every 18 months.

Do you support increasing the asset-size threshold from $500 million to $750 million to determine whether a community bank can qualify for an examination every 18 months? Do you support OCC's proposal? If not, why not?

A.5. In general, it is our experience that most banks within the $500 million to $750 million fit the community bank model—conducting noncomplex, traditional activities within their community. The FDIC is open to considering an increase in the asset size threshold for institutions to be subject to an 18-month examination interval.

Currently, about 80 percent of banks (5,150) have total assets of $500 million or less, and most of these are well-capitalized and well-managed and would qualify for the extended examination interval. Another approximately 380 banks would qualify if the asset-size threshold was raised to $750 million.

However, it is important to continue a program of regular on-site examinations because unfortunately, community banks do fail. Of the 500 plus banks that failed since 2008, the median size was just $242 million. There is no substitute for regular, on-site examinations to address specific problems at individual institutions. Call Reports and other financial reporting can give a snapshot of the bank's financial position, but the only way to truly assess the quality of capital and assets is to examine them on-site. Moreover, there is no effective way for examiners to evaluate the quality of management and management's risk management practices without a regular program of on-site examination. No amount of capital will be able to save poorly managed banks with significant and increasing levels of risky and problem assets.

Q.6. If you believe that the $750-million threshold is not appropriate, what threshold or other criteria would be more appropriate to use as the basis for this change?

A.6. The FDIC is open to considering an increase in the institution asset size threshold to $750 million for an 18-month examination interval.

Q.7. Would you support allowing any institution to petition to qualify for an exam every 18 months?

A.7. Section 10 of the Federal Deposit Insurance Act and Part 337 of the FDIC Rules and Regulations specify institutions that are well-managed and well-capitalized and with total assets of less than $500 million may qualify for an examination interval of 18 months. While we are open to raising the thresholds, the FDIC prefers to maintain a threshold to ensure a consistent examination schedule for institutions rather than conducting case-by-case analyses of petitions, which could result in inconsistent regulatory treatment.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM DOREEN R. EBERLEY

Q.1. Your agency put out an interagency statement on your approach to QM loans just over a year ago. In the statement, you stated that financial institutions should continue to originate QM and non-QM loans and that you would not criticize loans based solely on their QM status.

How have you made sure this message is heard by all of your examiners at all financial institutions, particularly small ones?

A.1. On December 13, 2013, the FDIC, FRB, NCUA, and the OCC jointly issued an interagency statement on the supervisory approach for residential mortgage loans. The FDIC recognizes that many institutions are assessing how to implement the Ability-to-Repay (ATR) and Qualified Mortgage (QM) Standards Rule issued by the CFPB and will not subject a residential mortgage loan to regulatory criticism based solely on the loan's status as QM or a non-QM.

As the FDIC supervises many small community banks, we have made it a top priority to develop a deeper understanding and sensitivity to the challenges and opportunities facing community banks. In order to ensure that all FDIC examiners are aware of the new rules, the FDIC has (1) provided comprehensive training to all examiners prior to the effective date of the mortgage rules; (2) incorporated training on new rules into the curricula used in connection with our schools for new examiners; (3) provided regular alerts on up-to-date changes to all examiners through our internal distribution channels; and (4) held quarterly meetings with field examination supervisors in the regional offices.

The FDIC provides a substantial amount of technical assistance to help our supervised banks and their staff keep current on the latest consumer compliance issues and changes, including those associated with the new mortgage rules, through a variety of channels. Examples include a Technical Assistance Video Program that covers a wide variety of topics (e.g., CRA, Flood Insurance, Fair Lending, Mortgage Rules, etc.) and nationwide banker teleconferences, designed to maintain open lines of communication with financial institution staff on important regulatory and emerging issues.

Q.2. What impact has the rule had on small banks making non-QM loans?

A.2. Preliminary observations by FDIC examiners suggest that the extent to which FDIC-supervised banks are originating non-QMs varies from institution to institution; a number of FDIC-supervised banks are originating non-QM loans while others are focusing their lending on QM loans. While it is still early in the implementation process, and we do not have concrete data about loan originations outside of the QM safe harbor, we have heard feedback from some community bankers that they have long been documenting borrowers' ability to repay and, as a result, their underwriting and lending has been relatively unchanged since the new ATR/QM rule became effective.

We note recent data showing that the growth in residential lending among community banks since the rule became effective has actually outpaced the industrywide rate of growth. While the data does not tell us why that happened, of course, it may be that this reflects the sound lending practices of community banks such that the mortgage rules did not require significant changes to their business practices.

Q.3. Is the QM standard the only standard that a lender can use to establish a borrower's ability-to-repay their mortgage at the time of origination?

A.3. No, it is not. The ATR can be established outside of the QM framework. The ATR Rule sets forth eight basic requirements as to what must be considered and verified in determining ability to repay for non-QM loans. They include assessing current or reasonably expected income or assets, among other things. It is important to note that while these common sense underwriting standards must be considered generally, the rule does not mandate any specific target ratios or other metrics around these underwriting standards. Lenders are free to develop their own specific underwriting metrics and processes as long as they are consistent with the ATR/QM Rule.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAPO FROM DOREEN R. EBERLEY

Q.1. The first Economic Growth and Regulatory Paperwork Act (EGRPRA) review submitted to Congress in 2007 states: "Besides reviewing all of our existing regulations in an effort to eliminate unnecessary burdens, the Federal banking agencies worked together to minimize burdens resulting from new regulations and current policy statements as they were being adopted." The report submitted to Congress specifically discussed consumer financial regulations, anti-money laundering regulations, and recently adopted rules. However, included in the *Federal Register* for this 10-year review are two footnotes that suggest that CFPB rules, anti-money laundering rules, and new regulations that have recently gone into effect will not be included in the review.

Rather than predetermine which rules should or should not be reviewed, shouldn't the agencies review all existing regulations and eliminate or recommend statutory changes that are needed to eliminate any regulatory requirements that are outdated, unnecessary, or unduly burdensome?

A.1. In carrying out the statutory mandate to conduct a comprehensive regulatory review pursuant to section 2222 of EGRPRA, the FDIC, OCC, and FRB (collectively, the Federal banking agencies or FBAs) are required to categorize their regulations by type and publish, at regular intervals, one or more categories of regulations for public comment, asking commenters to identify any outdated, unnecessary, or unduly burdensome regulatory requirements.

However, commenters are free to comment on any regulations and, to the extent the FBAs receive comments on regulations outside of their respective jurisdictions (such as the CFPB's consumer protection rules or the anti-money laundering rules promulgated by the Department of the Treasury's Financial Crimes Enforcement Network), the FBAs will share those comments with the appropriate agencies. Generally, comments that pertain to regulations promulgated by agencies other than the FBAs are most effectively addressed by the agencies that have authority to amend or eliminate those rules, as appropriate.

In accordance with EGRPRA, the FBAs initially decided to exclude new FBA regulations that had only recently gone into effect or rules that have yet to be fully implemented.[1] In a March 6, 2015, letter to Chairman Shelby, however, the FBAs committed to expand the scope of the EGRPRA review to include newly issued

[1] For similar reasons, during our first EGRPRA review that was completed in 2006, the FBAs excluded recently issued regulations implementing the Community Reinvestment Act (CRA) and several capital rulemaking initiatives. See 71 *Fed. Reg.* 287, 289 (Jan. 4, 2006).

FBA regulations. Specifically, the FBAs indicated their intention to solicit comment on regulations that have been finalized before we complete the EGRPRA review. To that end, the FBAs indicated that future *Federal Register* notices soliciting public comment under the EGRPRA review, including the next notice expected to be issued in May 2015, will no longer exclude new regulations.

Q.2. Does Congress need to update the EGRPRA statute to include the CFPB to ensure the review is comparable in scope to what was reviewed last time?

A.2. Section 2222 of EGRPRA requires the FFIEC and each appropriate FBA to conduct a review of their regulations. [2]

The FDIC notes that, in a regulatory review process separate from the EGRPRA process, the Consumer Financial Protection Bureau (CFPB) is required to review its significant rules and to publish a report of its review no later than 5 years after the rules take effect. See 12 U.S.C. 5512(d). The agencies participating in the EGRPRA review process have publicly committed to share any comments with the CFPB (or other appropriate agency) if the reviewing agencies receive a comment about a regulation that is within the other appropriate agency's jurisdiction.

Should Congress determine that it would be beneficial to include the CFPB as a participating agency in future EGRPRA reviews, we will collaborate with the CFPB as we have with the other banking agencies participating in the current EGRPRA process.

Q.3. If not, what specific steps will be taken to ensure that the review will include all existing regulations, including consumer financial regulations, anti-money laundering rules, and new regulations?

A.3. As noted above, the FBAs have committed to solicit comment on our regulations that have been finalized before we complete the EGRPRA review. To that end, future *Federal Register* notices soliciting public comment under the EGRPRA review, including the next notice expected to be issued in May 2015, will no longer exclude new regulations. In addition, the FBAs will accept comments on our regulations at the remaining public outreach meetings. The agencies participating in the EGRPRA review process also have publicly committed to share any comments with the CFPB (or other appropriate agency) if the reviewing agencies receive a comment about a regulation that is within the other appropriate agency's jurisdiction.

Q.4. A main criticism of the last review was that the banking regulators subsequently repealed or eliminated only a few substantive regulations. To ensure that the current review has a more successful outcome, will your agencies set up a Government Web site that posts the feedback and list the 10 most burdensome regulations identified?

A.4. The FBAs have established a publicly accessible, interagency EGRPRA Web site at *http://egrpra.ffiec.gov/* similar to the EGRPRA Web site that was set up during the last EGRPRA proc-

[2] The FFIEC currently is comprised of the Office of Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Consumer Financial Protection Bureau (CFPB), and the State Liaison Committee.

ess. On that Web site, the FBAs post all of the *Federal Register* notices seeking public comment on the regulations subject to EGRPRA review and, in an effort to promote transparency, also post every comment letter received in response to our requests for public comment. The EGRPRA Web site also includes an archive of Web casts and transcripts from every outreach meeting. In addition, the FDIC has its own publicly accessible EGRPRA Web page that provides related information and a link to the interagency EGRPRA Web site.

Although the FBAs consider each comment received during the EGRPRA process regardless of when it is received, the FBAs have divided their regulations into groups and are seeking comments on the various groups of regulations through a series of *Federal Register* notices. Because the comment process is still ongoing, it would be premature to identify the most burdensome regulations identified by the commenters. To the extent there are significant issues raised by commenters, however, the FFIEC will identify those in the Report to Congress that is required to be submitted pursuant to section 2222 of EGRPRA.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORKER FROM DOREEN R. EBERLEY

Q.1. Last Congress, legislation was introduced in the House (H.R. 2673, 113th Congress) that would provide financial institutions protection from the liability associated with Section 1411 of the Dodd-Frank Act, so long as the loan appears on the institution's balance sheet. I understand that the CFPB partially addressed this issue for some institutions through its Notice of Proposed Rulemaking. Please answer the following questions related to the proposed legislation:

Do you believe the proposed legislation would have a material impact on the safety and soundness of covered financial institutions?

A.1. QM status involves important safeguards for lenders, borrowers, and the financial system, including product requirements that encompass basic underwriting standards and protections against products and features that proved to be particularly risky in the crisis, such as option ARMs, negatively amortizing loans, not underwriting to the fully indexed rate, and certain balloon loans. Extending safe harbor status to such risky products and features that performed so poorly in recent years, even if they were held in a bank's portfolio would raise significant policy concerns.

Additionally, it is important to note that most community banks meet the current definition of "small creditor," so they can take advantage of an exception that allows them to make balloon loans, so long as they meet the other product requirements and hold the loans in their portfolios. This exception is particularly important to small and rural banks, which are more likely than larger banks to originate balloon loans; and the recent proposal to expand the universe of small and rural creditors could result in even more lenders taking advantage of the balloon loan exception.

Q.2. If so, do you believe the current supervisory process and capital requirements are sufficient to address any perceived risks that may come from this change?

A.2. The recent crisis reflects that the financial industry is vulnerable to significant losses if large numbers of borrowers receive loans they cannot afford to repay. While the supervisory process and capital requirements mitigate against potential losses, there is no substitute for the prudent underwriting of loans.

Q.3. Do you have additional comments, concerns, or proposed changes to the legislation?

A.3. The evidence so far is that the existing balance of regulation and flexibility with respect to QM is working. Recent data showing that the growth in residential lending among community banks since the rule became effective has actually outpaced the industry-wide rate of growth. While the data do not tell why that happened, it may be that this reflects the preexisting sound lending practices of community banks such that the mortgage rules did not require significant changes to their business practices. Until and unless there is sound data to the contrary, we believe that it would be premature to make any portfolio loan—regardless of actual underwriting or product design—presumptively one that meets an ability-to-repay standard.

Q.4. The Bipartisan Policy Center recently suggested creating a pilot program for a "consolidated examination force" for the institutions subject to supervision by all three of the Federal prudential regulators. Such a program would force coordination between the agencies and minimize the costs associated with examinations for banks. It appears that the Federal Financial Institutions Examination Council (FFIEC) could provide the vehicle to run the pilot program. Do you believe your agencies currently have the statutory authority to undertake such a joint pilot program through FFIEC? If so, why haven't the agencies taken steps to initiate such a pilot program?

A.4. *Coordinated Examinations.* The agencies already coordinate their examination programs when their supervisory oversight overlaps.

Examination Activities. For FDIC-supervised institutions, we coordinate primarily with the relevant State authority. Since 1992, we have had working agreements with the Conference of State Bank Supervisors (CSBS) that cover such topics as the frequency of examinations, the types of examinations on banks of supervisory concern, preexamination procedures, the responsibilities of each agency for processing reports of examination and for conducting specialty examinations, the coordination of enforcement actions, the processing of joint applications, and the sharing of supervisory information.

The FDIC has entered into agreements for conducting alternate examinations with the State banking regulators to avoid duplication of efforts. The FDIC is constantly looking for ways to reduce burden and streamline supervisory processes and has received some constructive comments on how to do this in the EGRPRA outreach, including raising thresholds for extended exam cycles and continuing to improve communication between bankers and examiners.

The FDIC also coordinates with the Federal Reserve when there is a holding company, with the depth of coordination being driven by the extent of nonbank entities under the holding company and the size of the institution. In 1995, the FDIC, the Federal Reserve, and the CSBS formed a State–Federal working group to streamline and improve the coordination of the examination and supervision of State-chartered institutions operating in an interstate environment.

The Shared National Credit (SNC) Program is an interagency initiative administered jointly by the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Office of the Comptroller of the Currency. The program was founded in 1977 for the purpose of ensuring consistency among the three Federal banking regulators in the classification of large syndicated credits.

Technology service provider (TSP) examinations are examinations authorized by the Bank Service Company Act (12 U.S.C. §1867(c)). Because many TSPs provide services to more than one class of banking charter, the Federal banking regulators typically conduct examinations of TSPs on a joint basis, with rotating responsibility for serving as agency-in-charge. For the largest TSPs, the Federal banking regulators coordinate the examinations at the national level through the Federal Financial Institution Examination Council (FFIEC) IT Subcommittee. Regional TSPs are coordinated by each agency's regional office.

Backup Authority. The FDIC's statutory authority gives it a degree of supervisory responsibility, in its role as insurer, for insured depository institutions (IDIs) for which it is not the primary Federal supervisor. The FDIC's examiners have the authority to make recommendations and take enforcement action against such IDIs. The FDIC also has staff in each of its regional offices that regularly review examination reports and other available information from the primary Federal regulators for those institutions. The FDIC also performs off-site monitoring of those institutions on an ongoing basis, particularly for institutions with more than $10 billion in assets.

Under a 2010 agreement with the OCC and the Federal Reserve, the FDIC has the other regulators' ongoing consent to participate in examinations of large, complex IDIs, as defined in the document. Pursuant to this agreement, the FDIC has dedicated examiners participating with the OCC and the Federal Reserve in continuous examination activities at every IDI that has more than $100 billion in total assets. The FDIC collaborates with the OCC and the Federal Reserve in their development of supervisory strategies. The FDIC also participates in a variety of other periodic supervisory activities at these institutions, including capital and liquidity stress tests.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR HELLER FROM DOREEN R. EBERLEY

Q.1. During the hearing, Mr. Toney Bland stated, "But I would say that the OCC, as part of our normal practice, we look at on an ongoing basis whether rules are appropriate in terms of still relevant, and we will make changes, if they need to, without waiting for the next EGRPRA process." Within your respective agency's jurisdiction, please provide the number and a list of regulations you're your agency eliminated or changed due to irrelevance or undue burden since 2006 along with a brief description of each.

A.1. See Appendix A attached.

Q.2. Within your respective agency's jurisdiction, please provide the total number and a list of new rules and regulations that have been adopted since the last EGRPRA review along with a brief description of each.

A.2. See Appendix B attached.

Q.3. During the last EGRPRA review, Federal banking agencies hosted a total of 16 outreach sessions around the country. To date only six outreach sessions have been announced. During this current EGRPRA review, how many total outreach meetings will be held and will there be at least 16 meetings as before?

A.3. The Federal banking agencies have scheduled a total of six outreach meetings in centrally located cities around the Nation and may consider additional forms of outreach. During the last EGRPRA review, the Federal banking agencies conducted a total of 16 outreach sessions that hosted approximately 500 people in total. As part of the current EGRPRA review, the Federal banking agencies have conducted two outreach meetings to date that have already hosted over 200 people in total. In addition, the current EGRPRA outreach sessions will provide a live-stream and transcript of every outreach meeting via the EGRPRA Web site, which was not available during the previous EGRPRA review.

Q.4. To date only one EGRPRA outreach meeting, focusing on rural banking issues, has been scheduled in Kansas City. How many more rural banking outreach meetings do you plan on scheduling? Given the diversity of rural banking needs around the country, in what other geographic regions would those meetings take place?

A.4. We believe that rural banking plays a critical role in providing consumers and businesses across the Nation with essential financial services and access to credit. To ensure that rural bankers have an opportunity to address their concerns directly to regulators, the Federal banking agencies have scheduled an outreach meeting in Kansas City, which will focus specifically on rural banking issues. The FFIEC's EGRPRA Web site will provide a live-stream Web cast and a transcript of the entire meeting to ensure all interested parties from other geographic regions have access to the meeting. In order to make the live-stream more interactive, the Federal banking agencies are looking to make phone participation available, if possible, to people who may wish to participate in the rural outreach session via Web cast.

APPENDIX A

FDIC FINAL RULES THAT WERE ELIMINATED OR CHANGED DUE TO IRRELEVANCE OR UNDUE BURDEN SINCE 2007
(in chronological order)

	FR Date	**FDIC Federal Register Citations**	**Brief Description**
1	12/29/06	Repeal of Reports and Public Disclosure of Indebtedness of Executive Officers and Principal Shareholders to a State Nonmember Bank and Its Correspondent Banks. 12 CFR Part 349. 71 FR 78337. **Effective Date: 12/22/06**	The FDIC repealed its regulations governing reporting on lending by a State nonmember bank and its correspondent banks to executive officers and principal shareholders. The FDIC took this action in accordance with the Financial Services Regulatory Relief Act of 2006, section 601.
2	07/16/07	Management Official Interlocks. 12 CFR Part 348. 72 FR 38753. **Effective Date: 07/07/07**	The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the FDIC, and the Office of Thrift Supervision (OTS) amended their rules regarding management interlocks to implement section 610 of the Financial Services Regulatory Relief Act of 2006, which expanded the small institution exception limiting interlocks between unaffiliated depository organizations from $20 million to $50 million.
3	09/25/07	Expanded Examination Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks. 12 CFR Parts 337 & 347. 72 FR 54347. **Effective Date: 09/27/07**	The OCC, Board, FDIC, and OTS jointly adopted as final the interim rules issued on April 10, 2007, that implemented section 605 of the Financial Services Regulatory Relief Act of 2006 (FSRRA) and related legislation (collectively the Examination Amendments). The Examination Amendments permit insured depository institutions (institutions) that have up to $500 million in total assets and that meet certain other criteria, to qualify for an 18-month (rather than 12-month) onsite examination cycle. Prior to enactment of FSRRA, only institutions with less than $250 million in total assets were eligible for an 18-month onsite examination cycle. The interim rules made parallel changes to the Agencies' regulations governing the onsite examination cycle for U.S. branches and agencies of foreign banks, consistent with the International Banking Act of 1978. In addition to implementing the changes in the Examination Amendments, the interim rules clarified when a small insured depository institution is considered "well managed" for purposes of qualifying for an 18-month examination cycle.
4	10/25/07	Extension of Time Period for Quarterly Reporting of Bank Officers' and Certain Employees' Personal Securities Transactions. 12 CFR Part 344. 72 FR 60546. **Effective Date: 11/26/07**	The FDIC amended its regulation governing personal securities trading reporting to extend the time period from 10-business to 30-calendar days after the end of the calendar quarter that officers and all employees of state nonmember banks who make or participate in investment decisions for the accounts of customers must report their personal securities transactions.

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	FR Date	FDIC Federal Register Citations	Brief Description
5	08/07/08	Final Rule: Fair Housing and Nondiscrimination on the Basis of Disability. 12 CFR Parts 338 and 352. 73 FR 45854. **Effective Date: 08/07/08**	The FDIC amended two regulations to update FDIC addresses contained in the regulations. First, the FDIC updated the division name and address information in the Equal Housing Lender poster set forth in its fair housing regulation. Second, the FDIC updated the address and telephone contact information for the FDIC's Office of Diversity and Economic Opportunity (ODEO) set forth in its regulation on nondiscrimination on the basis of disability.
6	09/25/08	Financial Education Programs That Include the Provision of Bank Products and Services 12 CFR Part 303. 73 FR 55431. **Effective Date: 09/25/08**	The FDIC amended its regulations to permit state nonmember banks to participate or assist in certain financial education programs conducted on school premises where, in connection with the program, deposits are received, checks are paid, or money is lent, without the need to submit a branch application to, and receive prior approval from, the FDIC.
7	07/20/09	Annual Independent Audits and Reporting Requirements. 12 CFR Parts 308 and 363. 74 FR 35726. **Effective Date: 08/06/09**	The FDIC amended part 363 of its regulations concerning annual independent audits and reporting requirements for certain insured depository institutions, which implements section 36 of the Federal Deposit Insurance Act, The amendments provided greater clarity and more complete guidance to institutions and independent public accountants concerning compliance with the requirements of section 36 and part 363.
8	09/15/09	Interest on Deposits. 12 CFR Part 329. 74 FR 47050. **Effective Date: 09/15/09**	The FDIC amended its regulations to eliminate restrictions on certain kinds of transfers from savings deposits for state chartered banks that are not members of the Federal Reserve System and insured branches of foreign banks.
9	09/17/09	Deposit Insurance Regulations; Temporary Increase in Standard Coverage Amount; Mortgage Servicing Accounts; Revocable Trust Accounts; International Banking; Foreign Banks. 12 CFR Parts 330 and 347. 74 FR 47711. **Effective Date: 10/19/09**	The FDIC adopted a final rule amending its deposit insurance regulations to: (1) reflect Congress's extension, until December 31, 2013, of the increase in the standard maximum deposit insurance amount ("SMDIA") from $100,000 to $250,000; (2) make the revocable trust account coverage rules easier to understand and apply; and (3) simplify the deposit insurance coverage rule on mortgage servicing accounts.

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	FR Date	FDIC Federal Register Citations	Brief Description
10	12/01/09	Final Rule: Final Model Privacy Form Under the Gramm-Leach-Bliley Act. 12 CFR Part 332. 74 FR 62890. **Effective Date: 12/31/09**	The OCC, Board, FDIC, OTS, NCUA, FTC, CFTC, and SEC adopted final amendments to their rules that implement the privacy provisions of Subtitle A of Title V of the Gramm-Leach-Bliley Act. These rules required financial institutions to provide initial and annual privacy notices to their customers that are clear, succinct, and easy to read. Pursuant to Section 728 of the Financial Services Regulatory Relief Act of 2006, the Agencies adopted a model privacy form that financial institutions may rely on as a safe harbor to provide disclosures under the privacy rules.
11	8/13/10	Deposit Insurance Regulations; Permanent Increase in Standard Coverage Amount; Advertisement of Membership; International Banking; Foreign Banks. 12 CFR Parts 328, 330, and 347. 75 FR 49363. **Effective Date: 08/13/10**	The FDIC implemented Section 335 of the Dodd-Frank Act which made permanent the standard maximum deposit insurance amount of $250,000.
12	11/15/10	Deposit Insurance Regulations; Unlimited Coverage for Noninterest-Bearing Transaction Accounts. 12 CFR Part 330. 75 FR 69577. Final Rule. **Effective Date: 12/31/10**	The FDIC adopted a final rule amending its deposit insurance regulations to implement section 343 of the Dodd-Frank Act, providing for unlimited deposit insurance for "noninterest-bearing transaction accounts" for two years starting December 31, 2010.
13	01/27/11	Deposit Insurance Regulations; Unlimited Coverage for Noninterest-Bearing Transaction Accounts; Inclusion of Interest on Lawyers Trust Accounts. 12 CFR Part 330. 76 FR 4813.[1] **Effective Date: 01/27/11**	The FDIC adopted a final rule amending its deposit insurance regulations to implement an amendment to section 11(a)(1)(B)(iii) of the FDI Act, as added by section 343 of the Dodd-Frank Act, that includes Interest on Lawyers Trust Accounts ("IOLTA") in the definition of "noninterest-bearing transaction account" for purposes of providing unlimited deposit insurance for such accounts for two years starting December 31, 2010.

[1] The FDIC issued an Interim Final Rule on this subject on 1/14/2008. *See* 73 FR 2143.

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FDIC FINAL RULES THAT WERE ELIMINATED OR CHANGED DUE TO IRRELEVANCE OR UNDUE BURDEN SINCE 2007
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	FR Date	FDIC Federal Register Citations	Brief Description
14	02/25/11	Assessments, Large Bank Pricing. 12 CFR Part 327. 76 FR 10672. **Effective Date: 01/01/11**	The FDIC amended its regulations to implement revisions to the Federal Deposit Insurance Act made by the Dodd-Frank Act by modifying the definition of an institution's deposit insurance assessment base; to change the assessment rate adjustments; to revise the deposit insurance assessment rate schedules in light of the new assessment base and altered adjustments; to implement Dodd-Frank's dividend provisions; to revise the large insured depository institution assessment system to better differentiate for risk and better take into account losses from large institution failures that the FDIC may incur; and to make technical and other changes to the FDIC's assessment rules.
15	07/14/11	Interest on Deposits; Deposit Insurance Coverage. 12 CFR Parts 329 & 330. 76 FR 41392. **Effective Date: 07/21/11**	The FDIC issued a final rule amending its regulations to reflect section 627 of the Dodd-Frank Act, repealing the prohibition against the payment of interest on demand deposit accounts.
16	08/05/11	Transfer and Redesignation of Certain Regulations Involving State Savings Associations Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; Interim Rule. 12 CFR Parts 390 & 391. 76 FR 47652. **Effective Date: 07/22/11**	Title III of the Dodd-Frank Act provided that the functions, powers, and duties of the OTS relating to State savings associations transfer to the FDIC effective one year after July 21, 2010, the date that the Dodd-Frank Act was enacted. The Act also amended section 3 of the FDI Act to designate the FDIC as the "appropriate Federal banking agency" for State savings associations. The FDIC is authorized to issue regulations pursuant to the FDI Act and other existing laws as the "appropriate Federal banking agency." As a result, pursuant to those laws, the FDIC, the designated "appropriate Federal banking agency" for State savings associations, is authorized to issue certain regulations involving State savings associations. Consistent with the authority provided to the FDIC by the Dodd-Frank Act, the FDI Act, and other statutory authorities, the FDIC reissued and redesigned certain transferring OTS regulations. In the future, the FDIC indicated that it may take other actions related to the transferred rules: incorporating them into other FDIC regulations contained in Title 12, Chapter III, amending them, or rescinding them, as appropriate.

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(in chronological order)

	FR Date	FDIC Federal Register Citations	Brief Description
17	12/19/13	Removal of Transferred OTS Regulations Regarding Recordkeeping and Confirmation Requirements for Securities Transactions Effected by State Savings Associations and Other Amendments. 12 CFR Parts 344 and 390. 78 FR 7672. Final Rule **Effective Date: 01/21/14**	The FDIC adopted a final rule to rescind and remove the former transferred OTS regulation entitled "Recordkeeping and Confirmation Requirements for Securities Transactions" and to amend another regulation also entitled "Recordkeeping and Confirmation Requirements for Securities Transactions." The FDIC adopted a Final Rule that resulted in the same recordkeeping and confirmation requirements for securities transactions being applied to all FDIC-supervised institutions.
18	07/21/14	Transferred OTS Regulations and FDIC Regulations Regarding Disclosure and Reporting of CRA-Related Agreements. 12 CFR Parts 346 and 390. 79 FR 42183. Final Rule **Effective Date: 08/20/14**	In order to streamline the FDIC's regulations, the FDIC adopted a Final Rule to rescind and remove the former transferred OTS regulation, Part 390, Subpart H. The Final Rule also revised Part 346, concerning reporting and disclosure of CRA-related agreements, to make that rule applicable to all insured depository institutions supervised by the FDIC.
19	07/21/14	Transferred OTS Regulations and FDIC Regulations Regarding Post-Employment Activities of Senior Examiners. 12 CFR Parts 336 and 390. 79 FR 42181. Final Rule **Effective Date: 08/20/14**	In order to streamline the FDIC's regulations, the FDIC adopted a Final Rule to rescind and remove the former transferred OTS regulation, Part 390, Subpart A. The Final Rule also revised Part 336, concerning appropriate post-employment activities of senior examiners, to make that rule applicable to senior examiners of all insured depository institutions supervised by the FDIC.
20	10/24/14	Transferred OTS Regulations Regarding Securities of State Savings Associations. 12 CFR Parts 335 and 390. 79 FR 63498. Final Rule **Effective Date: 11/24/14**	In order to streamline the FDIC's regulations, the FDIC adopted a Final Rule to rescind and remove the former transferred OTS regulation, Part 390, Subpart U. Further, the Final Rule revised Part 335, concerning securities registration, disclosure, and reporting requirements, to make that rule applicable to all insured depository institutions supervised by the FDIC. The Final Rule made additional revisions to Part 335 to indicate the FDIC's current organizational structure.

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FDIC FINAL RULES THAT WERE ELIMINATED OR CHANGED DUE TO IRRELEVANCE OR UNDUE BURDEN SINCE 2007
(in chronological order)

	FR Date	FDIC Federal Register Citations	Brief Description
21	12/18/14	Transferred OTS Regulations Regarding Loans in Areas Having Special Flood Hazards. 12 CFR Parts 339 and 391. 79 FR 75742. **Effective Date: 01/20/15**	The FDIC rescinded the former transferred OTS regulation "Loans in Areas Having Special Flood Hazards," 12 CFR Part 391, subpart D in its entirety and replaced it with Part 339. The final rule integrated the flood insurance regulations for State nonmember banks and State savings associations in accordance with the requirements of the Dodd-Frank Act. The designation of Part 339 as the single regulation for all insured depository institutions supervised by the FDIC will serve to streamline the FDIC's rules and eliminate unnecessary regulations.
22	01/30/15	Transferred OTS Regulations Regarding Possession by Conservators and Receivers for Federal and State Savings Associations. 12 CFR Part 390. 80 FR 5015. **Effective Date: 03/02/15**	The FDIC rescinded and removed the former transferred OTS regulation entitled "Possession by Conservators and Receivers for Federal and State Savings Associations" from the Code of Federal Regulations because it was determined to be redundant. This rescinded rule originally was included in the regulations that were transferred to the FDIC from the OTS on July 21, 2011, in connection with the implementation of Title III of the Dodd- Frank Act.
23	01/30/15	Removal of Transferred OTS Regulations Regarding Rules of Practice and Procedure and Amendments to FDIC Rules and Regulations. 12 CFR Parts 308 and 390. 80 FR 5009. Final Rule **Effective Date: 03/02/15**	In order to streamline the FDIC's regulations, the FDIC adopted a Final Rule to rescind and remove the former transferred OTS regulation, Part 390, Subparts B, C, D, and E. Further, the Final Rule revised Part 308, Subparts A, B, C, K, and N, concerning various practice and procedural requirements, to make that rule applicable to enforcement and investigative proceedings involving all insured depository institutions supervised by the FDIC.

APPENDIX B

FINAL REGULATIONS ISSUED SINCE 2007
(in chronological order)

FR Date	FDIC Federal Register Citations
04/18/07	Supplemental Standards of Ethical Conduct for FDIC Employees. 5 CFR Part 3201. 72 FR 19375. **Effective Date: 05/18/07**
07/16/07	Management Official Interlocks. 12 CFR Part 348. 72 FR 38753. **Effective Date: 07/16/07**
09/25/07	Expanded Examination Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks. 12 CFR Parts 337 & 347. 72 FR 54347. **Effective Date: 09/25/07**
10/25/07	Extension of Time Period for Quarterly Reporting of Bank Officers' and Certain Employees' Personal Securities Transactions. 12 CFR Part 344. 72 FR 60546. **Effective Date: 11/26/07**
11/07/07	Fair Credit Reporting Affiliate Marketing Regulations. 12 CFR Part 334. 72 FR 62910. **Effective Date: 01/01/08**
11/09/07	Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003. 12 CFR Parts 334 and 364. 72 FR 63718. **Effective Date: 01/01/08**
11/28/07	Rules of Practice and Procedure. 12 CFR Part 308. 72 FR 67233. **Effective Date: 11/28/07**
12/07/07	Risk-Based Capital Standards: Advanced Capital Adequacy Framework - Basel II. 12 CFR Part 325. 72 FR 69288. **Effective Date: 04/01/08**
12/21/07	Community Reinvestment Act Regulations. 12 CFR Part 345. 72 FR 72571. **Effective Date: 01/01/08**
07/17/08	Large-Bank Deposit Insurance Determination Modernization. 12 CFR Part 360. 73 FR 41180. **Effective Date: 08/18/08**
08/07/08	Final Rule: Fair Housing and Nondiscrimination on the Basis of Disability. 12 CFR Parts 338 and 352. 73 FR 45854. **Effective Date: 08/07/08**
09/25/08	Deposit Insurance Requirements After Certain Conversions; Definition of "Corporate Reorganization;" Optional Conversions ("Oakar Transactions"); Additional Grounds for Disapproval of Changes in Control; and Disclosure of Certain Supervisory Information. 12 CFR Parts 303, 308, and 309. 73 FR 55432.[1] **Effective Date: 09/25/08**
09/25/08	Financial Education Programs That Include the Provision of Bank Products and Services 12 CFR Part 303. 73 FR 55431.[2] **Effective Date: 09/25/08**
11/26/08	Temporary Liquidity Guarantee Program. 12 CFR Part 370. 73 FR 72244. **Effective Date: 11/21/08, except that § 370.5(h)(2), (h)(3), and (h)(4) are effective 12/19/08.**
12/02/08	Assessment Dividends. 12 CFR 327. 73 FR 73158. **Effective Date: 01/01/09**

[1] The FDIC issued an Interim Final Rule on this subject on 1/14/2008. *See* 73 FR 2143.
[2] The FDIC issued an Interim Final Rule on this subject on 6/23/2008. *See* 73 FR 35337.

12/02/08	Rules of Practice and Procedure. 12 CFR Part 308. 73 FR 73153. **Effective Date: 12/31/08**
12/22/08	Community Reinvestment Act Regulations. 12 CFR Part 345. 73 FR 78153. **Effective Date: 01/01/09**
12/22/08	Recordkeeping Requirements for Qualified Financial Contracts. 12 CFR Part 371. 73 FR 78162. **Effective Date: 01/21/09**
12/22/08	Risk Based Assessments. 12 CFR Part 327. 73 FR 78155. **Effective Date: 01/01/09**
12/30/08	Minimum Capital Ratios; Capital Adequacy Guidelines; Capital Maintenance; Capital: Deduction of Goodwill Net of Associated Deferred Tax Liability. 12 CFR Part 325. 73 FR 79602. **Effective Date: 01/29/09**
02/02/09	Processing of Deposit Accounts in the Event of an Insured Depository Institution Failure. 12 CFR Part 360. 74 FR 5797. **Effective Date: 03/04/09**
03/04/09	Assessments. 12 CFR Part 327. 74 FR 9525. **Effective Date: 04/01/09**
05/29/09	Special Assessments. 12 CFR Part 327. 74 FR 25639. **Effective Date: 06/30/09**
06/03/09	Amendment of the Temporary Liquidity Guarantee Program To Extend the Debt Guarantee Program and To Impose Surcharges on Assessments for Certain Debt Issued on or After April 1, 2009. 12 CFR Part 370. 74 FR 26521. **Effective Date: 06/03/09**
06/03/09	Interest Rate Restrictions on Insured Depository Institutions That Are Not Well Capitalized. 12 CFR Part 337. 74 FR 26516. **Effective: 12/03/09**
06/05/09	Modification of Temporary Liquidity Guarantee Program. 12 CFR Part 370. 74 FR 26941. **Effective Date: 06/05/09**
06/30/09	Interim Final Rule: Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Capital--Residential Mortgage Loans Modified Pursuant to the Making Home Affordable Program. 12 CFR Part 325. 74 FR 31160. **Effective Date: 06/30/09**
07/01/09	Procedures To Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies Under Section 312 of the Fair and Accurate Credit Transactions Act; Final Rule; Guidelines for Furnishers of Information to Consumer Reporting Agencies; Proposed Rule. 12 CFR Part 334. 74 FR 31484. **Effective Date: 07/01/10**
07/20/09	Annual Independent Audits and Reporting Requirements. 12 CFR Parts 308 and 363. 74 FR 35726. **Effective Date: 08/06/09**
09/01/09	Final Rule Regarding Limited Amendment of the Temporary Liquidity Guarantee Program To Extend the Transaction Account Guarantee Program With Modified Fee Structure. 12 CFR Part 370. 74 FR 45093. **Effective Date: 10/01/09**
09/15/09	Interest on Deposits. 12 CFR Part 329; 74 FR 47050. **Effective Date: 09/15/09**

09/17/09	Deposit Insurance Regulations; Temporary Increase in Standard Coverage Amount; Mortgage Servicing Accounts; Revocable Trust Accounts;[3] International Banking; Foreign Banks. 12 CFR Parts 330 and 347. 74 FR 47711.[4] **Effective Date: 10/19/09**
10/23/09	Final Rule: Amendment of the Debt Guarantee Program To Provide for the Establishment of a Limited Six-Month Emergency Guarantee Facility. 12 CFR Part 370. 74 FR 54743. **Effective Date: 10/23/09**
11/17/09	Final Rule: Prepaid Assessments. 12 CFR Part 327. 74 FR 59056. **Effective Date: 11/17/09**
11/20/09	Final Rule: Risk Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Capital--Residential Mortgage Loans Modified Pursuant to the Home Affordable Mortgage Program. 74 FR 60137. **Effective Date: 12/21/09**
12/01/09	Final Rule: Final Model Privacy Form Under the Gramm-Leach-Bliley Act. 12 CFR Part 332. 74 FR 62890. **Effective Date: 12/31/09**
12/29/09	Community Reinvestment Act Regulations. 12 CFR Part 345. 74 FR 68662. **Effective Date: 01/01/10**
01/28/10	Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Regulatory Capital; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs; and Other Related Issues. Final Rule. 12 CFR Part 325. 75 FR 4636. **Effective Date: 03/29/10**
03/18/10	Transitional Safe Harbor Protection for Treatment by the Federal Deposit Insurance Corporation as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation. 12 CFR Part 360. 75 FR 12962. **Effective Date: 03/18/10**
06/28/10	Final Rule Regarding Amendment of the Temporary Liquidity Guarantee Program To Extend the Transaction Account Guarantee Program. 12 CFR Part 370. 75 FR 36506. **Effective Date: 06/28/10**
07/28/10	Registration of Mortgage Loan Originators. 12 CFR Part 365. 75 FR 44656 **Effective Date: 10/01/10**
08/13/10	Deposit Insurance Regulations; Permanent Increase in Standard Coverage Amount; Advertisement of Membership; International Banking; Foreign Banks. 12 CFR Parts 328, 330, and 347. 75 FR 49363. **Effective Date: 08/13/10**
09/30/10	Treatment by the Federal Deposit Insurance Corporation as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation After September 30, 2010. 12 CFR Part 360. 75 FR 60287. **Effective Date: 09/30/10**
10/04/10	Community Reinvestment Act Regulations. 12 CFR Part 345. 75 FR 61035. **Effective Date: 11/03/10**
11/15/10	Deposit Insurance Regulations; Unlimited Coverage for Noninterest-Bearing Transaction Accounts. 12 CFR Part 330. 75 FR 69577. **Effective Date: 12/31/10**

[3] The FDIC issued an Interim Final Rule on this subject on 9/30/2008. *See* 73 FR 56706.
[4] The FDIC issued an Interim Final Rule on this subject on 10/17/2008. *See* 73 FR 61658.

12/20/10	Community Reinvestment Act Regulations. 12 CFR Part 345. 75 FR 92778. **Effective Date: 01/19/11**
12/20/10	Designated Reserve Ratio. 12 CFR Part 327. 75 FR 79286. **Effective Date: 01/01/11**
12/30/10	Community Reinvestment Act Regulations. 12 CFR Part 345. 75 FR 82217. **Effective Date: January 1, 2011**
01/27/11	Deposit Insurance Regulations; Unlimited Coverage for Noninterest-Bearing Transaction Accounts; Inclusion of Interest on Lawyers Trust Accounts. 12 CFR Part 330. 76 FR 4813. **Effective Date: 01/27/11**
02/25/11	Assessments, Large Bank Pricing. 12 CFR Part 327. 76 FR 10672. **Effective Date: 04/01/11**
03/18/11	Procedures for Monitoring Bank Secrecy Act Compliance and Fair Credit Reporting: Technical Amendments. 12 CFR Parts 326 and 334. 76 FR 14793. **Effective Date: 03/18/11**
05/16/11	Securities of Nonmember Insured Banks. 12 CFR Part 335. 76 FR 28168.[5] **Effective Date: 05/16/11**
06/28/11	Risk-Based Capital Standards: Advanced Capital Adequacy Framework - Basel II; Establishment of a Risk-Based Capital Floor. 12 CFR Part 325. 76 FR 37620. **Effective Date: 07/28/11**
07/12/11	Retail Foreign Exchange Transactions. 12 CFR Part 349; 76 FR 40779. **Effective Date: 07/15/11**
07/14/11	Interest on Deposits; Deposit Insurance Coverage. 12 CFR Parts 329 & 330. 76 FR 41392. **Effective Date: 07/21/11**
07/15/11	Certain Orderly Liquidation Authority Provisions under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act. 12 CFR Part 380. 76 FR 41626. **Effective Date: 08/15/11**
08/05/11	Transfer and Redesignation of Certain Regulations Involving State Savings Associations Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. 12 CFR Parts 390 & 391. 76 FR 47652. **Effective Date: 07/22/11**
10/14/11	Disclosure of Information; Privacy Act Regulations; Notice and Amendments. 12 CFR Parts 309 & 310. 76 FR 63817. **Effective Date: 11/14/11**
11/01/11	Resolution Plans Required. 12 CFR Part 381. 76 FR 67323.[6] **Effective Date: 11/30/11**
12/22/11	Community Reinvestment Act Regulations. 12 CFR Part 345. 76 FR 79529. **Effective Date: 01/01/12**
01/23/12	Resolution Plans Required for Insured Depository Institutions With $50 Billion or More in Total Assets. 12 CFR Part 360. 77 FR 3075. **Effective Date: 04/01/12**
04/30/12	Mutual Insurance Holding Company Treated as Insurance Company. 12 CFR Part 380. 77 FR 25349. **Effective Date: 05/30/12**

[5] The FDIC issued an Interim Final Rule on this subject on 9/30/2008. *See* 75 FR 73947.
[6] The FDIC issued an Interim Final Rule on this subject on 9/21/2011. *See* 76 FR 58379.

06/22/12	Calculation of Maximum Obligation Limitation. 12 CFR Part 380. 77 FR 37554. **Effective Date: 07/23/12**
07/24/12	Permissible Investments for Federal and State Savings Associations: Corporate Debt Securities. 12 CFR Part 362. 77 FR 43151. **Effective Date: 07/21/12**
08/30/12	Risk-Based Capital Guidelines: Market Risk. 12 CFR Part 325. 77 FR 53060. **Effective Date: 01/01/13**
10/15/12	Annual Stress Test. 12 CFR Part 325. 77 FR 62417. **Effective Date: 10/15/12**
10/16/12	Enforcement of Subsidiary and Affiliate Contracts by the FDIC as Receiver of a Covered Financial Company. 12 CFR Part 380. 77 FR 63205. **Effective Date: 11/15/12**
10/31/12	Assessments, Large Bank Pricing. 12 CFR Part 327. 77 FR 66000. **Effective Date: 04/01/13**
12/17/12	Rules of Practice and Procedure. 12 CFR Parts 308 and 390. 77 FR 74573. **Effective Date: 12/31/12**
12/21/12	Community Reinvestment Act Regulations. 12 CFR Part 345. 77 FR 75521. **Effective Date: 01/01/13**
02/13/13	Appraisals for Higher-Priced Mortgage Loans. Official Staff Commentary. 78 FR 10368. **Effective Date: 01/18/14**
06/10/13	Definition of "Predominantly Engaged in Activities That Are Financial in Nature or Incidental Thereto." 12 CFR Part 380. 78 FR 34712. **Effective Date: 07/10/13**
09/04/13	Records of Failed Insured Depository Institutions. 12 CFR Part 360. 78 FR 54373. **Effective Date: 10/04/13**
09/13/13	Deposit Insurance Regulations; Definition of Insured Deposit. 12 CFR Part 330. 78 FR 56583. **Effective Date: 10/15/13**
12/19/13	Removal of Transferred OTS Regulations Regarding Recordkeeping and Confirmation Requirements for Securities Transactions Effected by State Savings Associations and Other Amendments. 12 CFR Parts 344 and 390. 78 FR 76721. **Effective Date: 01/21/14**
12/26/13	Appraisals for Higher-Priced Mortgage Loans. Official Staff Commentary. 78 FR 78520. **Effective Date: 01/18/14**
12/30/13	Community Reinvestment Act Regulations. 12 CFR Part 345. 78 FR 79283. **Effective Date: 01/01/14**
01/31/14	Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds. 12 CFR Part 351. 79 FR 5537. **Effective Date: 04/01/14**
01/31/14	Treatment of Certain Collateralized Debt Obligations Backed Primarily by Trust Preferred Securities With Regard to Prohibitions and Restrictions on Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds. RIN 3064–AE11. Interim Final Rule. **Effective Date: 04/01/14**

04/14/14	Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule. 12 CFR Parts 303, 308, 324, 327, 333, 337, 347, 349, 360, 362, 363, 364, 365, 390, and 391. 79 FR 20754. **Effective date: 04/14/14**
04/14/14	Restrictions on Sales of Assets of a Covered Financial Company by the Federal Deposit Insurance Corporation. 12 CFR Part 380. 79 FR 20762. **Effective Date: 07/01/14**
05/01/14	Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and Their Subsidiary Insured Depository Institutions. 12 CFR Part 324. 79 FR 24528. **Effective Date: 01/01/18**
07/21/14	Transferred OTS Regulations and FDIC Regulations Regarding Post-Employment Activities of Senior Examiners. 12 CFR Parts 336 and 390. 79 FR 42181. **Effective Date: 08/20/14**
07/21/14	Transferred OTS Regulations and FDIC Regulations Regarding Disclosure and Reporting of CRA-Related Agreements. 12 CFR Parts 346 and 390. 79 FR 42183. **Effective Date: 08/20/14**
07/30/14	Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rule, Revisions to the Definition of Eligible Guarantee. 12 CFR Part 324. 79 FR 44120. **Effective Date: 10/01/14**
09/26/14	Regulatory Capital Rules: Regulatory Capital, Revisions to the Supplementary Leverage Ratio. 12 CFR Part 324. 79 FR 57725. **Effective Date: 01/21/15**
10/10/14	Liquidity Coverage Ratio: Liquidity Risk Measurement Standards. 12 CFR Part 329. 79 FR 61440. **Effective Date: 01/01/15**
10/24/14	Transferred OTS Regulations Regarding Securities of State Savings Associations. 12 CFR Parts 335 and 390. 79 FR 206. **Effective Date: 11/24/14**
11/21/14	Annual Stress Test. 12 CFR Part 325. 79 FR 69365. **Effective Date: 01/01/15**
11/26/14	Assessments. 12 CFR Part 327. 79 FR 70927. **Effective Date: 01/01/15**
12/19/14	Transferred OTS Regulations Regarding Loans in Areas Having Special Flood Hazards. 12 CFR Parts 339 and 391. 79 FR 75742. **Effective Date: 01/20/15**
12/24/14	Credit Risk Retention. 12 CFR Part 373. 79 FR 77602. **Effective Date: 02/23/15**
12/29/14	Community Reinvestment Act Regulations. 12 CFR Part 345. 79 FR 77852. **Effective Date: 01/01/15**
01/30/15	Removal of Transferred OTS Regulations Regarding Rules of Practice and Procedure and Amendments to FDIC Rules and Regulations. 12 CFR Parts 308 and 390. 80 FR 5009. **Effective Date: 03/02/15**
01/30/15	Transferred OTS Regulations Regarding Possession by Conservators and Receivers for Federal and State Savings Associations. 12 CFR Part 390. 80 FR 5015. **Effective Date: 03/02/15**

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SASSE FROM DOREEN R. EBERLEY

Q.1. Some are very concerned that implementing certain Basel III capital requirements relating to mortgage servicing could substantially alter business models adopted by banks in Nebraska and elsewhere designed to complete certain mortgage services on their own behalf and for other banks.

Have you completed or otherwise reviewed analyses that show whether the adoption of these requirements would affect mortgage servicing operations?

If so, have these analyses shown that smaller institutions would limit mortgage servicing operations as a result?

What entities are likely to perform the mortgage servicing operations instead?

A.1. In adopting the revised Basel III regulatory capital rule, the FDIC took careful action to ensure the rule appropriately reflects the risks inherent in banking organizations' business models. The FDIC believes the rule's treatment of mortgage servicing assets (MSA) contributes to the safety and soundness of banking organizations by mitigating against MSA market value fluctuations that may adversely affect banking organizations' regulatory capital base. The FDIC, together with the other Federal banking agencies, have long limited the inclusion of MS As and other intangible assets in regulatory capital due to the high level of uncertainty regarding the ability of banking organizations to realize value from these assets, especially under adverse financial conditions. Moreover, the financial crisis demonstrated that the liquidity—in the form of sales, exchanges, or transfers—of MSAs may become unreliable at a time when banking organizations are especially in need of reliable liquidity. Furthermore, the FDIC, as receiver of failed insured depository institutions, has generally found MSAs to be unmarketable during periods of adverse economic and financial conditions.

Prior to issuing the revised rule, the agencies conducted a pro forma impact analysis that suggested the vast majority of banking organizations would meet the revised risk-based capital requirements after incorporating the treatment for MSAs, without having to make any changes to their business models. The rule also provides a lengthy transition period to allow banking organizations sufficient time to modify their capital structure or adjust business models, as appropriate. Based on these considerations, the FDIC believes the rule's treatment of MSAs is appropriate and strengthens the quality and required level of capital.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN FROM DOREEN R. EBERLEY

Q.1. One of the most consistent things I hear from Kansas banks and credit unions is that they are continually being required to comply with new regulations that were never intended to affect them. I am in the process of drafting a small lending regulatory relief package along with Sen. Tester that seeks to address some of these problems by clarifying that small lenders are very different than the regulations' intended targets. Do you believe that some of the rules intended for our most complex financial institutions have trickled down to community banks? If so, what specific portions of the law under your individual area of jurisdiction have you identified as problematic for small lenders?

A.1. As a general rule, FDIC examinations adhere to statutory and regulatory thresholds and do not encompass a review of guidance or regulations that are not applicable to an organization. Our communications to examiners and bankers on supervisory matters clearly identify to whom the guidance or regulations applies. Additionally, we continually encourage bankers to contact our regional offices to discuss any questions they may have regarding our regulations and guidance, including issues of applicability.

Q.2. The burden of regulation does not necessarily come from a single regulation, but the aggregate burden of regulations, guidance, and size-inappropriate best practices. The burden grows when small lenders are required to comply with several new rules concurrently. In isolation, the impact of one regulation may appear small, but when added to the growing list of compliance requirements, the cost is skyrocketing. What is your agency doing to identify and reduce aggregate burden?

A.2. As the primary Federal regulator for the majority of smaller, community institutions, the FDIC is keenly aware of the challenges facing community banks and already tailors its supervisory approach to consider the size, complexity, and risk profile of the institutions it oversees. The FDIC has taken a number of actions to identify and reduce aggregate burden.

Examination Process

- Since 2011, FDIC letters to the industry (Financial Institution Letters or FILs) include a Statement of Applicability to institutions with less than $1 billion in total assets. If an industry letter is targeted to larger, more complex institutions, we let community institutions know that upon issuance.
- The FDIC tailors certain examination and reporting requirements to consider institution size. For example, our programs for periodic on-site examinations of risk management and compliance with the Community Reinvestment Act (CRA) follow extended frequency cycles for smaller, well-managed institutions. Similarly, certain annual audit reporting requirements either exempt smaller institutions or reduce their reporting scope. For certain well-managed, well-capitalized institutions with less than $500 million in total assets, the FDIC is able to extend the cycle (reduce the frequency) of statutorily mandated risk management examinations from 12 months to 18 months.
- In 2013, in response to concerns about pre- and post-examination processes, the FDIC developed a Web-based tool (e-Prep) that generates a preexamination document and information request list tailored to a specific institution's operations and business lines.
- Examination and enforcement procedures related to the Home Mortgage Disclosure Act (HMDA) have been the subject of significant attention by the FDIC over the past several years as

we have sought to refine our processes to best achieve our key supervisory objective of the accurate reporting of loan-level mortgage data by the 60 percent of FDIC-supervised institutions subject to HMDA reporting thresholds. Key changes include: (1) revising sampling techniques for small reporters (less than 100 reportable transactions) to avoid triggering additional file review for minor errors; and (2) limiting imposition of civil money penalties to situations where an institution's level of errors is significantly above the threshold for resubmission and the violations are deemed egregious.

Application/Deposit Assessment Process

- In response to what we heard in the first round of comments from the EGRPRA review, the FDIC has already acted on regulatory relief suggestions where we could achieve rapid change. In November, we issued two Financial Institution Letters (FILs) responding to suggestions we received from bankers.
  - The first FIL released questions and answers about the deposit insurance application process at *https://www.fdic.gov/news/news/financial/2014/fill4056.html* after commenters told us a clarification of the FDIC's existing policies would be helpful.
  - The second FIL addressed new procedures that eliminate or reduce the need to file applications by institutions wishing to conduct permissible activities through certain bank subsidiaries organized as limited liability companies, subject to some limited documentation standards. This will significantly reduce application filings in the years ahead. See at *https://www.fdic.gov/news/news/financial/2014/fil14054.html.*
- In 2011, the deposit insurance assessment base was changed from using adjusted domestic deposits to average consolidated total assets minus average tangible equity. This change resulted in larger, more complex institutions paying a higher proportion of total assessments. In addition, the assessment system for larger institutions also results in higher assessment rates for banks with high-risk asset concentrations, less stable balance sheet liquidity, or potentially higher loss severity in the event of failure.

Technical Assistance

- The *Directors' Resource Center,* available through the FDIC's Web site, is dedicated to providing useful information and resources for directors and officers of FDIC-insured institutions.
- The FDIC has issued a series of educational videos: *New Director Education Series, Virtual Directors' College Program, Virtual Technical Assistance Program,* and *Proposed Rulemaking Videos.* These efforts are ongoing, and most recently, the FDIC has issued several technical assistance videos on the new mortgage rules issued by the Consumer Finance Protection Bureau (CFPB) pursuant to the Dodd-Frank Act. The video series is designed to assist bankers in familiarizing themselves with the

new rules and meeting the regulatory requirements. The first video, released in November 2014, covered the Ability to Repay and Qualified Mortgage Standards Rule. The second video, released in January 2015, covered the Loan Originator Compensation Rule, and the third video, released in February 2015, covers the Servicing Rule.

- The *Regulatory Calendar,* which is updated on an ongoing basis, alerts stakeholders to critical information, as well as comment and compliance deadlines relating to changes in Federal banking laws and regulations. It includes notices of proposed interim and final rulemakings, guidance affecting insured financial institutions, and notices for training opportunities such as banker conference calls.

Other Activities

- In February 2012, the FDIC sponsored a national conference to examine the unique role of community banks in our Nation's economy and the challenges and opportunities they face. Later in 2012, roundtable discussions were conducted in each of the FDIC's six supervisory regions that focused on the financial and operational challenges and opportunities facing community banks and the regulatory interaction process. The FDIC has held subsequent roundtables each year since 2012.
- In December 2012, the FDIC released its *Community Banking Study,* a data-driven review that explored issues and questions about community banks. Subsequent studies in this series have addressed banking industry consolidation, the effect of rural depopulation on community banks, the performance and social impact of minority depository institutions, and the evolution of branch office structures. In 2014, the FDIC added a permanent section in its flagship *Quarterly Banking Profile* report dedicated to tracking trends in the community banking sector.
- In 2009, the FDIC established its Advisory Committee on Community Banking to provide advice and guidance on a broad range of policy issues impacting small community banks—and the local communities they serve—with a focus on rural areas. The *Advisory Committee* has provided valuable input on examination policies and procedures, lending practices, deposit insurance assessments, insurance coverage issues, regulatory compliance matters, and obstacles to the continued growth and ability to extend financial services in their local markets.

Tailored Rules

- The Dodd-Frank Act reforms were designed to improve the competitive balance between small and large banks by restoring market discipline and oversight of large systemically important institutions. For example, enhanced prudential standards, resolution planning, and stress testing provisions apply only to banks over $10 billion, and incentive compensation provisions exempt institutions with less than $1 billion in total assets.

- The Volcker Rule provides that a bank with consolidated assets of $10 billion or less may satisfy the compliance program requirements of the Volcker Rule by including in its existing compliance policies and procedures appropriate references to the requirements of section 13 of the BHC Act and adjustments as appropriate given the activities, size, scope, and complexity of the banking entity, rather than a full Volcker Rule compliance program.
- The full Liquidity Coverage Ratio applies only to large internationally active banking organizations at the consolidated level and their IDI subsidiaries with assets of at least $10 billion. Banking organizations that are at least $50 billion, but which are not considered internationally active, are subject to a less stringent Modified Liquidity Coverage Ratio only at the holding company level.
- In connection with the promulgation of the new capital rules in 2013, the FDIC issued a 14-page Community Bank Guide, designed to assist community bankers in their understanding of the new capital rules. In the final capital rule, the Federal banking agencies retained the existing treatment of residential mortgage exposures and Accumulated Other Comprehensive Income, and also grandfathered certain Trust Preferred Stock for small bank holding companies, all in response to the concerns of community banks.
- Additionally, in July 2014 we issued a FIL to FDIC-supervised institutions describing how the FDIC will consider requests from FDIC-supervised S corporation banks to pay dividends to their shareholders to cover taxes on their pass-through share of bank earnings when those dividends are otherwise not permitted under the new capital rules. We informed FDICsupervised banks that we would generally approve those requests for well-rated banks, barring any significant safety and soundness issues. Many community banks are S corporation banks, and we issued this guidance because of feedback from concerned S corporation banks and their shareholders.

Q.3. The EGRPRA process was brought about to identify redundant or excessively burdensome regulation. I think the EGRPRA process has the potential to be an important tool to begin rebuilding some semblance of trust between Federal regulators and the financial institutions they oversee. However, the first iteration revealed little agency will to utilize the process. Resulting reductions in regulatory burden were, in a word, insignificant. Various EGRPRA listening sessions have been conducted across the country. What is the most consistent message you are hearing from participants? What are you doing differently in the current EGRPRA review, and what actual, tangible relief can our smallest lenders expect?

A.3. The EGRPRA review is still ongoing, and the Federal banking agencies (FBAs) continue to solicit input from the public via *Federal Register* notices and outreach meetings on various categories of regulations. Several commenters have indicated it is not so much a single regulation, but the total impact of all financial institution regulations that concerns regulated entities. This message is most frequently received from community banks. The FBAs are keenly aware of the role that community banks play in providing consumers and businesses across the Nation with essential financial services and access to credit, and will carefully consider comments that provide insight on ways to provide regulatory relief to such institutions. To address these comments, the FDIC has implemented some burden-reduction measures during the EGRPRA review process, rather than at the conclusion of the process. For example, on November 19, 2014, the FDIC announced in Financial Institution Letter 54-2014 the elimination of certain filing requirements for State bank subsidiaries engaged in activities that are permissible for a national bank subsidiary when the State bank subsidiary is organized as a limited liability company.

Q.4. Major changes to mortgage disclosures and timing requirements are set to go into effect on August 1st of this year. These regulatory changes will impact every participant in the mortgage lending process and every consumer mortgage transaction. The financial institutions that are still engaged in residential mortgage lending are making every effort to be ready by the August deadline. I am concerned that, if poorly crafted or hastily implemented, these additional rules will result in fewer borrowing options in communities I represent as small lenders exit the business altogether. Are your respective examiners already being trained on how to assess these changes over the course of their reviews?

A.4. As you know, the need for greater harmony between the two major mortgage disclosure laws—RESPA and Truth in Lending—has long been recognized and sought. The new disclosures were developed through testing that involved both consumers and industry representatives. It does, of course, represent a substantial change to make the initial switch, which is why there was substantial lead time and industry outreach built into the implementation process.

We are sensitive to the implementation challenges for community banks. We are in the process of preparing extensive training for our examiners and intend to have them trained before the new requirements take effect. We also are working on an interagency basis to develop examination procedures for examiners to use as they examine institutions for compliance with the regulation. In addition, the CFPB is doing outreach to the industry, and also has a number of resources available to help community banks with the new rule *[http://www.consumerfinance.gov/regulatory-implementation/tila-respa/]*. The FDIC will monitor the impact of this rule on community banks.

Q.5. Is your agency prepared to be flexible in implementing these new rules while small institutions struggle to implement these changes effectively?

A.5. The FDIC, like other bank regulatory agencies, appreciates the magnitude of this initial change in disclosures. As with the rules that became effective in 2014, our initial examination will look at whether the institution has developed a plan and timeline for implementation, including training to assure that the appropriate personnel are familiar with the rule's requirements. FDIC examiners will consider the overall compliance efforts of an institution and take into account progress the institution has made in implementing its plan.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TESTER FROM DOREEN R. EBERLEY

Q.1. I remain concerned about consolidation in the industry. In a State like Montana we had 65 community banks before the crisis, and as of yesterday we had 54. That means a sixth of our institutions have either gone out of businesses or consolidated with some of the larger institutions. I'm concerned that if consolidation continues the whole nature of small institutions being able to serve, particularly rural communities, is going to disappear.

Can you tell me what trends you've seen with respect to community bank consolidation since the crisis and how this rate compares to before the crisis?

A.1. Consolidation is a long-term banking industry trend that dates back to the mid-1980s. Two waves of bank failures have removed more than 2,700 banking charters from the industry since 1985. But community banks were a little less likely than non-community banks to fail during the recent crisis. Just 5 percent of community banks operating at the end of 2004 failed through 2014, compared to 6 percent of non-community banks.

Voluntary mergers and consolidations have been responsible for the disappearance of more than 13,000 banking charters since 1985. As documented in FDIC research published last year, the most rapid period of voluntary consolidation was between 1993 and 2001, immediately following the relaxation of geographic restrictions on banking.

In all, community banks have seen much lower rates of charter consolidation than non-community banks in recent years. Our 2014 research shows that the total rate of charter attrition for community banks between 2003 and 2013 (29 percent) was less than half the rate for non-community banks (61 percent). Moreover, when community banks were acquired as a result of failure or merger, in 65 percent of the cases the acquirer was another community bank.

So while consolidation appears likely to continue as a long-term trend for the banking industry, it does not appear to pose a threat to the viability of the community banking model. At year-end 2014, some 93 percent of FDIC-insured institutions met the FDIC's community bank definition, an increase from 87 percent back in 1984.

Q.2. Why do you think we are seeing this in the industry?

A.2. The long-term trend of consolidation in banking has particularly affected the smallest institutions. At the end of 1984, there were over 6,000 federally insured banks and thrifts with assets less than $25 million. But by the end of 2014, there were just 180 institutions with assets less than $25 million. This trend speaks to the presence of economies of scale that operate among the smallest institutions.

The 2012 FDIC Community Banking Study identified declining average cost with greater asset size for some community bank lending specialties, but found that most of these economies of scale were realized by the time an institution reached a size of around $100 million. This is consistent with trends that have been observed in the size distribution of community banks over time. While the median community bank held $36 million in assets in 1984, by 2014 the median community bank held total assets of $167 million.

In all, the long-term trend of banking industry consolidation has resulted in fewer independent charters and increases over time in the median and average size of community banks and, especially, non-community banks. But this trend has not resulted in any decline over time in the percent of institutions that operate as community banks according to the FDIC's research definition.

Q.3. Are you seeing a difference in consolidation in urban areas vs. rural areas?

A.3. The FDIC has not specifically compared the rate of consolidation between institutions headquartered in urban vs. rural areas. However, results published in the 2012 FDIC Community Banking Study show that community banks are more likely to be headquartered in a non-metro county than non-community banks (47 percent to 17 percent in 2011). Moreover, the share of community banks headquartered in metro counties actually increased slightly from 46 percent in 1987 to 47 percent in 2011, while the share of total community bank offices located in non-metro counties increased from 34 percent to 38 percent. These figures do not point to a disproportionate decline in the community bank presence in non-metro counties during the long-term trend of banking industry consolidation.

Q.4. And specifically, what impact does this consolidation have on rural parts of the country?

A.4. As indicated above, community banks are an integral part of local economies in non-metro U.S. counties. In 2014, the FDIC published a study of the long-term trend of rural depopulation and the effect that it has had on the community banking sector. Over one half of U.S. rural counties lost population between 1980 and 2010, and the overall trend toward depopulation appears to be accelerating. Notwithstanding this long-term demographic trend, community banks operating in rural areas have performed relatively well in recent years, owing to a strong farm economy and relative stability in rural housing markets compared to those in some major metropolitan areas. Still, depopulation does create certain challenges for rural community banks, as it tends to limit their opportunities for growth and also can make it difficult to attract and maintain managerial talent.

Q.5. *Community Institution Viability*—What do you consider to be the biggest threat to small institutions livelihood and what are you all doing to address those risks?

A.5. Currently, the prolonged low interest rate environment and slow economic recovery are pressuring margins, have contributed to increased interest rate risk, and can limit a community bank's options for revenue growth. Additionally, emerging trends and risks will continue to challenge community banks' ability to plan for the future, such as the increasing volume and sophistication of cyberthreats and attacks.

The FDIC has responded to the low interest rate environment by enhancing its review of institutions' sensitivity to interest rate risk and has provided a technical assistance video for community bankers regarding interest rate risk. Moreover, we have dedicated an entire issue of our *Supervisory Insights* journal to interest rate risk issues.

Regarding cybersecurity, the FDIC issued a list of free resources from which community banks can obtain cyberthreat information and has assisted financial institutions in identifying and shutting down "phishing" Web sites that attempt to fraudulently obtain and use an individual's confidential personal or financial information. This year, the FDIC will add additional videos to our existing Cyber Challenge simulation exercise and work as a member of the FFIEC to implement actions to enhance the effectiveness of cybersecurity-related supervisory programs, guidance, and examiner training. The FDIC will continue to work with community banks to address these and other emerging threats.

Q.6. *Review of Existing Regulation*—Can you elaborate on how your review is going and share with us the major areas of consensus the agencies and the industry have found so far?

A.6. The EGRPRA review is still ongoing, and the Federal banking agencies (FBAs) continue to solicit input from the public via *Federal Register* notices and outreach meetings on various categories of regulations. Both the FDIC and the FFIEC have posted copies of relevant *Federal Register* notices on their respective Web sites. In addition, the FFIEC has posted video recordings and transcripts of outreach meetings, as well as copies of public comments received by the FBAs on their respective Web sites. The FDIC and the other Federal banking agencies participating in the EGRPRA review process have begun a thorough review of all comments received, whether they were provided by participants in EGRPRA outreach sessions or through the more traditional public comment process. Although the EGRPRA review process has not concluded, we have heard from commenters, especially community banks, that it is the cumulative effect of all regulations that concerns regulated entities, and not just a single regulation.

Q.7. Can you share anything about your future plans as this review moves forward?

A.7. The Federal banking agencies will continue to solicit public input to identify outdated or otherwise unnecessary regulations that impact insured depository institutions. To accomplish that, the FBAs will publish additional *Federal Register* notices seeking comment on various categories of rules. In addition, the FBAs plan to hold four more outreach meetings this year, with one meeting focusing on rural banks. Comments related to the EGRPRA review process will be posted electronically on the FFIEC's and FDIC's Web sites. Once the EGRPRA review is complete, the FFIEC will provide Congress with a joint report that summarizes any significant issues raised in the public comments received by the FFIEC and the participating EGRPRA agencies along with the relative merits of such issues. The report will include an analysis of whether the FBAs will be able to address the regulatory burdens associated with such issues or whether these burdens must be addressed by legislative action. In the meantime, the FDIC has implemented some burden-reduction measures during the EGRPRA review process, rather than at the conclusion of the process. For example, on November 19, 2014, the FDIC announced in Financial Institution Letter 54-2014 the elimination of certain filing requirements for State bank subsidiaries engaged in activities that are permissible for a national bank subsidiary when the State bank subsidiary is organized as a limited liability company.

Q.8. *Appraisal*—In Montana, I continue to hear concerns from our community banks about appraisals. On several occasions I've heard stories about appraisers having to travel across the State or come from neighboring States. And when you live in a State like mine, you often find multimillion ranches next to your average middle-class family farm. If you aren't from the area, things like comparables become very tricky if you aren't from the area. Can you share any thoughts you have about ways to make the appraisal process more effective and less time consuming? Especially for institutions that keep mortgages in portfolio, considering they keep the risk on their books.

A.8. The Federal financial institution regulatory agencies' appraisal regulations require an appraisal for a federally related transaction unless an exemption applies. The primary exemption permits using an evaluation for transactions of $250,000 or less with the exception of certain higher-priced mortgage loans. Industry data reflects the median home price was $199,600 as of January 2015, indicating an evaluation was permitted for the vast majority of residential mortgage loans. We recognize that individuals performing evaluations and appraisals in rural areas may face challenges in identifying and locating comparable sales. However, exempting all real estate loans in rural areas from valuation requirements (appraisal or evaluation) could raise both safety and soundness and consumer protection concerns.

The Interagency Appraisal and Evaluation Guidelines provide a caveat for small or rural institutions or branches of large institutions that recognizes that it is not always practical to separate the collateral valuation program from the loan production process, as follows:

> For a small or rural institution or branch it may not always be possible or practical to separate the collateral valuation program from the loan production process. If absolute lines of independence cannot be achieved, an institution should be able to demonstrate clearly that it has prudent safeguards to isolate its collateral valuation program from influence or interference from the loan production process. In such cases, another loan officer, other officer, or director of the institution may be the only person qualified to analyze the real estate collateral. To ensure their independence, such lending officials, officers, or directors must abstain from any vote or approval involving loans on which they ordered, performed, or reviewed the appraisal or evaluation.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN SHELBY FROM MARYANN F. HUNTER

Q.1. According to the OCC, the Federal banking agencies have agreed to undertake a comprehensive review of all Call Report items and schedules. When will this review be completed? Who from your agency is in charge of this review? Will this review result in a formal, publicly available report?

A.1. In December of 2014, the Federal Financial Institutions Examination Council (FFIEC) agreed to undertake a comprehensive review of the Consolidated Reports of Condition and Income (Call Report) to identify potential opportunities to reduce burden associated with the Call Report requirements for community banks. This review is planned for completion by the fourth quarter of 2017. The review is being conducted under the direction of the Board's Chief Accountant Supervision in the Division of Banking Supervision and Regulation. A formal, comprehensive report on the results of the review is not currently planned for release to the public. However, the Federal Reserve and the other Federal banking agencies will publicly propose changes to the Call Report that we agree upon as a result of this review in joint *Federal Register* notices which will be issued for public comment in accordance with the Paperwork Reduction Act.

Q.2. Kansas Fed President, Esther George, said at a 2014 conference that the community bank "business model is one in which the incentives of banks are aligned with outcomes that benefit their customers and the economy. When incentives are aligned in this way, the need for an 'ability to repay rule,' for example, seems unnecessary."

Do you agree that banks that hold mortgages on portfolio have a vested interest to perform an analysis of a customer's ability to repay irrespective of whether such mortgage meets the requirements of a "Qualified Mortgage"?

Do you agree that mortgages held on portfolio should be afforded a "Qualified Mortgage" status? If not, why not?

A.2. As provided in a December 2013 interagency statement, the Federal Reserve expects institutions to underwrite residential mortgage loans in a prudent fashion and address key risk areas in their residential mortgage lending, including loan terms, borrower qualification standards, loan-to-value limits, and documentation requirements, regardless of whether loan is a qualified mortgage or nonqualified mortgage.

The Federal Reserve continues to expect institutions to underwrite all residential mortgage loans in a prudent fashion. It is not sufficient that mortgages only be held in portfolio in order to be designated as qualified mortgages (QM). However, if mortgages that are held in portfolio meet the specific QM requirements, as defined in Consumer Financial Protection Bureau regulations, including preclusion of certain features, such as negative amortization, interest-only payments, or certain balloon structures, and must meet limits on points and fees and other underwriting requirements, then the QM designation may be appropriate.

Q.3. The OCC acknowledged in its testimony that the Volcker Rule contains no exemption for community banks, and that the regulatory burden is not justified by the risk these institutions present. The OCC has drafted a legislative proposal to exempt from the Volcker Rule banks with total consolidated assets of $10 billion or less.

Do you support exempting from the Volcker Rule banks with total consolidated assets of $10 billion or less? Do you support OCC's proposal? If not, why not?

If you believe that the $10 billion threshold for an exemption from the Volcker rule is not appropriate, what threshold or other criteria would be more appropriate to use as the basis for the exemption?

A.3. Section 619 of the Dodd-Frank Act, which added a new section 13 to the Bank Holding Company Act of 1956 (BHC Act), also known as the Volcker Rule, generally prohibits any banking entity, regardless of size, from engaging in proprietary trading, and from acquiring or retaining an ownership interest in, sponsoring, or having certain relationships with a covered fund, subject to certain exemptions. Under the terms of the statute, section 13 applies to any banking entity regardless of its size. As a result, section 13 and the final rules apply to community banks.

With respect to the Volcker Rule, the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the Agencies) are charged with implementing that statutory provision endeavored to minimize the compliance burden on banking entities. As part of the implementing rules, the Agencies reduced the compliance program and reporting requirements applicable to banking entities with $10 billion or less in total consolidated assets. This was based in part on information that indicated that banking entities of this size generally have little or no involvement in prohibited proprietary trading or investment activities in covered funds. [1] Exempting community banks from section 13 would provide relief for thousands of community banks that face ongoing compliance costs incurred simply to confirm that their activities and investments are indeed exempt from the statute. At the same time, an exemption at this level would not be likely to increase risk to the financial system. The vast majority of activity and investment that section 13 of the BHC Act is intended to address takes place at the largest and most complex financial firms whose failure would have a significant effect on the stability of the financial system. Moreover, even with an exemption, the Federal banking agencies could continue to use existing prudential authority to address unsafe and unsound practices at a community bank that engaged in imprudent investment activities.

Q.4. The OCC also recommended increasing the asset-size threshold from $500 million to $750 million to determine whether a community bank can qualify for an examination every 18 months.

Do you support increasing the asset-size threshold from $500 million to $750 million to determine whether a community bank can qualify for an examination every 18 months? Do you support OCC's proposal? If not, why not?

[1] See "The Volcker Rule: Community Bank Applicability" (Dec. 10, 2013), available at: *http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20131210a4.pdf.*

If you believe that the $750 million threshold is not appropriate, what threshold or other criteria would be more appropriate to use as the basis for this change?

Would you support allowing any institution to petition to qualify for an exam every 18 months?

A.4. We are open to discussing with our colleagues at the other agencies the potential impact of revising the current asset threshold for the 18-month examination cycle. Any revisions to the threshold need to consider the trade-offs of a less frequent onsite examination cycle against the availability of data to monitor a bank's condition between onsite examinations. Therefore, an increase in the asset-size threshold for the examination cycle would have to be weighed against any proposals to lessen the regulatory reporting requirements for community banking organizations, including the reporting frequency and data collected, that could limit examiners' ability to monitor a bank offsite. Further, Federal bank supervisors still need the ability to conduct more frequent onsite examination for safety and soundness purposes.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAPO FROM MARYANN F. HUNTER

Q.1. The first Economic Growth and Regulatory Paperwork Act (EGRPRA) review submitted to Congress in 2007 states: "Besides reviewing all of our existing regulations in an effort to eliminate unnecessary burdens, the Federal banking agencies worked together to minimize burdens resulting from new regulations and current policy statements as they were being adopted." The report submitted to Congress specifically discussed consumer financial regulations, anti-money laundering regulations, and recently adopted rules. However, included in the *Federal Register* for this 10-year review are two footnotes that suggests that CFPB rules, anti-money laundering rules, and new regulations that have recently gone into effect will not be included in the review.

Rather than predetermine which rules should or should not be reviewed, shouldn't the agencies review all existing regulations and eliminate or recommend statutory changes that are needed to eliminate any regulatory requirements that are outdated, unnecessary, or unduly burdensome?

A.1. The Federal Reserve, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (the Agencies) have included in the Economic Growth and Regulatory Paperwork Act (EGRPRA) review all regulations over which we have rulemaking authority. Since the publication of the first request for comment, the Agencies have decided to expand the scope of the EGRPRA review to cover all regulations, including those that were enacted relatively recently. Future *Federal Register* notices and public outreach meetings will make it clear that the Agencies are accepting comment on all regulations adopted by the Agencies. The final request for comment, expected to be published by year end, will ask for comment on all regulations that have been adopted in final form by the time of the issuance of that request, even if the regulation was adopted only shortly before such request. As was stated in the *Federal Register* notice, comments that the Agencies receive during this EGRPRA review on rules that are administered by other agencies, such as the Consumer Financial Protection Bureau (CFPB) and the Financial Crimes Enforcement Network, will be provided to those agencies for their consideration.

Q.2. Does Congress need to update the EGRPRA statute to include the CFPB to ensure the review is comparable in scope to what was reviewed last time?

A.2. Under 12 U.S.C. §5512(d)(2), the CFPB is required to conduct a review of its significant rules every 5 years after their effective dates. Accordingly, the Federal Reserve believes that any consumer protection regulations transferred from the banking agencies to the CFPB under the Dodd-Frank Wall Street Reform and Consumer Protection Act will be reviewed in accordance with that requirement. In addition, the Agencies will send to the CFPB any comments received on regulations administered by the CFPB.

Q.3. If not, what specific steps will be taken to ensure that the review will include all existing regulations, including consumer financial regulations, anti-money laundering rules, and new regulations?

A.3. As noted above, we will provide other appropriate agencies with copies of comments received on regulations under their purview. The CFPB itself has its own statutorily mandated review process of its regulations. In addition to providing the appropriate regulator with any comments the Agencies receive during the EGRPRA review for which they are the functional regulator, the Agencies have expanded the scope of this EGRPRA review to include all new regulations that will be issued in final by the Agencies prior to the publication of the last *Federal Register* notice for the EGRPRA review. We believe this will enable the Agencies to conduct a thorough review of relevant regulations.

Q.4. A main criticism of the last review was that the banking regulators subsequently repealed or eliminated only a few substantive regulations. To ensure that the current review has a more successful outcome, will your agencies set up a Government Web site that posts the feedback and list the 10 most burdensome regulations identified?

A.4. The Agencies intend to publish a report to Congress at the end of this EGRPRA review. As was done in the report on the last EGRPRA review, the Agencies will summarize the comments provided and our responses to them. The report will summarize the significant issues arising from the review and the Agencies' responses thereto, in order to identify the feedback we received and the most burdensome regulations identified.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORKER FROM MARYANN F. HUNTER

Q.1. Last Congress, legislation was introduced in the House (H.R. 2673, 113th Congress) that would provide financial institutions protection from the liability associated with Section 1411 of the Dodd-Frank Act, so long as the loan appears on the institution's balance sheet. I understand that the CFPB partially addressed this issue for some institutions through its Notice of Proposed Rulemaking. Please answer the following questions related to the proposed legislation:

Do you believe the proposed legislation would have a material impact on the safety and soundness of covered financial institutions?

A.1. It is not readily apparent how the draft legislation would work with the existing qualified mortgage requirements provided in the Consumer Financial Protection Bureau's (CFPB) Ability-to-Repay rule. If the loans held on balance sheet do not meet the qualified mortgage criteria as set forth in the CFPB's rule, the legislation could create an incentive for banking organizations to originate mortgage loans that include features that were problematic during the crisis, such as negative amortization. Regardless of whether a mortgage loan is a qualified mortgage or nonqualified mortgage, the Federal Reserve continues to expect banking organizations to underwrite residential mortgage loans in a prudent fashion and address key risk areas in their residential mortgage lending, including loan terms, borrower qualification standards, loan-to-value limits, and documentation requirements. [1]

Finally, the qualified mortgage definition would not affect the regulatory capital treatment for residential mortgage exposures. Under the revised regulatory capital rules, mortgage exposures secured by a first-lien on an owner-occupied or rented one-to-four family residential property that meet prudential underwriting standards, are not 90 days or more past due or carried on non-accrual status, and are not restructured or modified, receive a 50 percent risk weight. A banking organization must assign a 100 percent risk weight to all other residential mortgage exposures even if designated as a qualified mortgage.

Q.2. If so, do you believe the current supervisory process and capital requirements are sufficient to address any perceived risks that may come from this change?

A.2. See response to Question 1.

Q.3. Do you have additional comments, concerns, or proposed changes to the legislation?

A.3. We do not have any at this time.

Q.4. Mr. Bland and the OCC have suggested that banks under $10 billion could be exempt from the Volcker rule. With respect to Volcker compliance, Governor Tarullo stated that he believes "both community banks and supervisors would benefit from not having to focus on formal compliance with regulation of matters that are unlikely to pose problems at smaller banks." Do you believe the $10 billion threshold proposed by the OCC is appropriate?

A.4. Section 619 of the Dodd-Frank Act, which added a new section 13 to the Bank Holding Company Act of 1956 (BHC Act), also known as the Volcker Rule, generally prohibits any banking entity, regardless of size, from engaging in proprietary trading, and from acquiring or retaining an ownership interest in, sponsoring, or having certain relationships with a covered fund, subject to certain ex-

[1] Interagency Statement on Supervisory Approach for Qualified and Nonqualified Mortgage Loans (December 13, 2013).

emptions. Under the terms of the statute, section 13 applies to any banking entity regardless of its size. As a result, section 13 and the final rules apply to community banks.

With respect to the Volcker Rule, the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the Agencies) are charged with implementing that statutory provision endeavored to minimize the compliance burden on banking entities. As part of the implementing rules, the Agencies reduced the compliance program and reporting requirements applicable to banking entities with $10 billion or less in total consolidated assets. This was based in part on information that indicated that banking entities of this size generally have little or no involvement in prohibited proprietary trading or investment activities in covered funds. [2] Exempting community banks from section 13 would provide relief for thousands of community banks that face ongoing compliance costs incurred simply to confirm that their activities and investments are indeed exempt from the statute. At the same time, an exemption at this level would not be likely to increase risk to the financial system. The vast majority of activity and investment that section 13 of the BHC Act is intended to address takes place at the largest and most complex financial firms whose failure would have a significant effect on the stability of the financial system. Moreover, even with an exemption, the Federal banking agencies could continue to use existing prudential authority to address unsafe and unsound practices at a community bank that engaged in imprudent investment activities.

Q.5. The Bipartisan Policy Center recently suggested creating a pilot program for a "consolidated examination force" for the institutions subject to supervision by all three of the Federal prudential regulators. Such a program would force coordination between the agencies and minimize the costs associated with examinations for banks. It appears that the Federal Financial Institutions Examination Council (FFIEC) could provide the vehicle to run the pilot program. Do you believe your agencies currently have the statutory authority to undertake such a joint pilot program through FFIEC? If so, why haven't the agencies taken steps to initiate such a pilot program?

A.5. The three Federal banking agencies regularly coordinate joint examination work in an effort to minimize the burden on an institution. Further, to avoid duplication of efforts and to share expertise, the staffs of the agencies regularly meet to discuss supervisory activities and findings and rely on long standing interagency agreements to conduct joint examinations and to share supervisory information. The decision to conduct a joint examination considers each agency's supervisory authority over a particular institution and the need to share information to support our various supervisory mandates. For instance, on the resolution of a problem bank or thrift, the FDIC, as the insurer of depository institutions, has backup examination authority and coordinates with the primary Federal bank regulator (either the Federal Reserve for state member banks

[2] See The Volcker Rule: Community Bank Applicability (Dec. 10, 2013), available at: *http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20131210a4.pdf.*

and the OCC for national banks and Federal thrifts) and as applicable, the state banking department, on participation on an examination. As the supervisor for holding companies, the Federal Reserve coordinates its examination activities with OCC and FDIC when the holding company and the bank or thrift subsidiary share risk functions.

Since 1977, the Agencies have coordinated the Shared National Credits (SNC) review program that is designed to provide a uniform review and credit quality assessment of many of the largest and most complex credits in the banking system. The SNC review program provides an efficient and consistent review of any loan or formal loan commitment extended to borrowers by a federally supervised institution, its subsidiaries, and affiliates that aggregates $20 million or more and is shared by three or more unaffiliated supervised institutions. In 2014, the agencies reviewed $975 billion of the $3.39 trillion credit commitments in the SNC portfolio.[3]

The Federal Reserve and the FDIC also coordinate the examination of State banks with the responsible State banking department. To foster consistency in the examination of State community banks, the Federal Reserve, the FDIC, and the FFIEC State Liaison Committee have adopted common examination procedures (referred to as the Examination Documentation (ED) Modules) and have an ongoing, interagency process for the review and updating of the ED modules to reflect current regulatory and policy mandates.

In addition, the agencies use the FFIEC to foster common examination approaches among the agencies. Through the work of the various FFIEC task forces and subcommittees, staffs of the agencies come together to discuss the implementation of supervisory guidance and to develop common reports and examination tools. For example, the FFIEC member agencies are coordinating various work streams on cybersecurity to improve collaboration with law enforcement and intelligence agencies and to communicate the importance of cybersecurity awareness and best practices among the financial industry and regulators.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR HELLER FROM MARYANN F. HUNTER

Q.1. During the hearing, Mr. Toney Bland, "But I would say that the OCC, as part of our normal practice, we look at on an ongoing basis whether rules are appropriate in terms of still relevant, and we will make changes, if they need to, without waiting for the next EGRPRA process." Within your respective agency's jurisdiction, please provide the number and a list of regulations your agency eliminated or changed due to irrelevance or undue burden since 2006 along with a brief description of each.

A.1. Per your request, attached please find a list of regulations the Federal Reserve has eliminated or changed since the last Economic Growth and Regulatory Paperwork Reduction Act review (due to irrelevance or undue burden) along with a brief description of each (Appendix to Question 1).

[3] Refer to the interagency press release announcing the 2014 SNC review results on the Federal Reserve's public Web site at: *www.federalreserve.gov/newsevents/press/bcreg/20141107a.htm*.

Appendix to Question 1

Rules repealed or amended since January 1, 2007, with the effect of reducing burden or easing compliance
January 1, 2007 – July 31, 2015

- *Capital: Small Bank Holding Company Policy Statement ("SBHCPS")*

  12 CFR 217, 225, 238; Regulations Q, Y, LL – Raised from $500 million to $1 billion the asset threshold to qualify for the SBHCPS and expanded the scope of companies eligible under SBHCPS to include savings and loan holding companies. (80 FR 5666, 20153)

- *CRA: Community Development and Eligible Use*

  12 CFR 228; Regulation BB – Expanded definition of "community development" to include loans, investments, and services meeting the "eligible uses" criteria in the Housing and Economic Recovery Act of 2008. (75 FR 79278)

- *CRA: Education Loans*

  12 CFR 228; Regulation BB – Implemented the statutory requirement that agencies consider the provision of low-cost education loans as a factor when assessing an institution's CRA record. (75 FR 61035)

- *Electronic Funds Transfer Receipts*

  12 CFR 205; Regulation E – Removed requirement to provide receipt for transactions under $15.00. (72 FR 36589)

- *Electronic Signature*

  12 CFR 202, 205, 213, 226; Regulations B, E, M, Z – Removed several provisions related to electronic signatures in order to reduce confusion, simplify the regulations, and increase adoption. (72 FR 63445, 63452, 63456, 63462, 63477, 71056, 71058)

- *Equal Credit: Auto Dealers*

  12 CFR 202; Regulation B – Excepted motor vehicle dealers subject to the Board's jurisdiction from the requirements of ECOA Section 704B pending until final rules implementing that provision. (76 FR 59237)

- *Exam Cycles*

  12 CFR 208, 211; Regulations H, K – Permitted certain depository institutions with up to $500 million in total assets to qualify for 18-month (rather than 12-month) on-site exam cycles. (72 FR 17798, 54347)

- *Interest on Demand Deposits*

  12 CFR 217; Regulation Q – Repealed Regulation Q, the prohibition against payment of interest on demand deposits. (76 FR 42015)

- *Reimbursement for Certain Reporting Requirements*

  12 CFR 219; Regulation S – Increased fees paid to institutions for assembling or providing financial records pursuant to the Right to Financial Privacy Act. (74 FR 50105)

- *Reporting of Certain Insider Loans*

  12 CFR 215; Regulation O – Eliminated certain reporting requirements for loans to executive officers, directors, and principal shareholders. (72 FR 30470)

- *Reserve Requirements: Adjustments and Clarifications*

  12 CFR 204, 210; Regulation D, J – Simplified the administration of reserve requirements and reduced costs for institutions by, *inter alia*, creating a common two-week maintenance period, creating a penalty-free band, discontinuing as-of adjustments related to deposit report revisions, and eliminating the contractual clearing balance program. (77 FR 21846, 21854, 22666, 66361)

- *Reserve Requirements: Pass Through and Savings Deposit Limits*

  12 CFR 204, 209; Regulation D, I – Implemented the Financial Services Regulatory Relief Act of 2006, permitting member banks to enter into pass-through arrangements with correspondent banks for required reserve balances. Also removed the three per month limit on certain transfers, such that all transfers and withdrawals from a savings deposit that are subject to a monthly limit will be subject to the same limit of not more than six per month. (74 FR 25629)

Q.2. Within your respective agency's jurisdiction, please provide the total number and a list of new rules and regulations that have been adopted since the last EGRPRA review along with a brief description of each.

A.2. Per your request, attached please find a list of new regulations the Federal Reserve has promulgated since January 1, 2007, along with a brief description of each (Appendix to Question 2).

Appendix to Question 2

Rules issued since January 1, 2007

Rules issued as required by the Dodd-Frank Act
August 1, 2010 – July 31, 2015

- *Appraisal Management Companies*

  12 CFR 208, 225; Regulations H, Y – Implemented minimum requirements in the Dodd-Frank Act to be applied in the registration and supervision of appraisal management companies ("AMCs"), including Federally regulated AMCs. (80 FR 32657)

- *Capital Adequacy: Advanced Approaches and Standardized Approach*

  12 CFR 208, 217, 225; Regulations H, Q, Y – The capital rules issued in October 2013 were a comprehensive update of the standardized and advanced approaches to risk-weighted assets, as required by the Dodd-Frank Act and consistent with Basel III. (78 FR 62017; 79 FR 44120; 80 FR 41409)

- *Capital Adequacy: Market-Risk*

  12 CFR 208, 217, 225; Regulations H, Q, Y – The capital rules issued in October 2013 were a comprehensive update of the market risk rules, as required by the Dodd-Frank Act and consistent with Basel III. (78 FR 62017, 76521)

- *Capital Adequacy: Supplementary Leverage Ratio*

  12 CFR 208, 217; Regulations H, Q – Established an enhanced supplementary leverage ratio for IDIs under covered BHCs of at least 6 percent and for covered BHCs of 2 percent above the minimum requirement of 3 percent. (79 FR 24528; 79 FR 57725)

- *Capital Framework*

  12 CFR 208, 217, 225; Regulations H, Q, Y – The capital rules issued in October 2013 were a comprehensive update of the capital framework, as required by the Dodd-Frank Act and consistent with Basel III. (78 FR 62017; 79 FR 78287)

- *Capital Plans*

  12 CFR 225; Regulation Y – Required large bank holding companies to submit capital plans to the Federal Reserve on an annual basis and to obtain approval under certain circumstances

before making a capital distribution. (76 FR 74631; 78 FR 59779, 71435; 79 FR 13498, 64025)

- *Concentration Limits*

  12 CFR 251; Regulation XX – Implemented the Dodd-Frank Act prohibition on certain financial company mergers or consolidations if the resulting company's liabilities upon consummation would exceed 10 percent of the aggregate liabilities of all financial companies. (79 FR 68095)

- *Consumer Leasing and Credit: Thresholds (Annual Adjustment)*

  12 CFR 213, 226; Regulations M, Z – Implemented the Dodd-Frank Act adjustment to the threshold for exempt consumer leases and exempt consumer credit transactions from $25,000 to $50,000. Subsequent amendments implemented the required annual adjustments to these thresholds. (76 FR 18349, 18354, 35721, 35722; 77 FR 69735, 69736; 78 FR 70193, 70194; 79 FR 56482, 56483)

- *Credit Risk Retention*

  12 CFR 244; Regulation RR – Implemented the Dodd-Frank Act requirement that the securitizer of asset-backed securities retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. (79 FR 77601)

- *Definitions for Title I of the Dodd-Frank Act*

  12 CFR 242; Regulation PP – Created definitions for "Predominantly Engaged In Financial Activities" and "Significant" in the context of nonbank financial companies and bank holding companies. (78 FR 20755)

- *Enhanced Prudential Standards: Debt-to-Equity*

  12 CFR 252; Regulation YY – Implemented the various enhanced prudential standards required by the Dodd-Frank Act for certain large bank holding companies (generally with $50 billion or more in assets). These include the requirement that covered BHCs maintain a debt-to-equity ratio of no more than 15-to-1. (79 FR 17239)

- *Enhanced Prudential Standards: Foreign Banks*

  12 CFR 252; Regulation YY – Implemented the various enhanced prudential standards required by the Dodd-Frank Act for certain large bank holding companies (generally $50 billion or more in assets) and large foreign banking organizations (generally $10 billion or more in assets). These include the requirements that a covered foreign banking organization,

inter alia, establish an intermediate holding company, maintain applicable capital, and establish a risk management committee. (79 FR 17239, 64025)

- *Enhanced Prudential Standards: Liquidity*

  12 CFR 252; Regulation YY – Implemented the various enhanced prudential standards required by the Dodd-Frank Act for certain large bank holding companies (generally $50 billion or more in assets) and large foreign banking organizations (generally $10 billion or more in assets). These include the requirements that a covered BHC manage liquidity risk, conduct liquidity stress tests, and have a highly liquid asset buffer. (79 FR 17239)

- *Enhanced Prudential Standards: Risk Committee*

  12 CFR 252; Regulation YY – Implemented the various enhanced prudential standards required by the Dodd-Frank Act for certain large bank holding companies (generally $50 billion or more in assets) and large foreign banking organizations (generally $10 billion or more in assets). These include the requirement that a covered BHC establish a risk committee responsible for enterprise-wide risk management with members having the necessary expertise. (79 FR 17239)

- *Financial Market Utilities*

  12 CFR 234; Regulation HH – Implemented the Dodd-Frank Act risk-management standards for financial market utilities that are designated as systemically important by the Financial Stability Oversight Council. (77 FR 45907; 78 FR 76973; 79 FR 65543, 67326)

- *Liquidity Coverage Ratio*

  12 CFR 249; Regulation WW – Established a quantitative minimum liquidity coverage ratio that requires a company subject to the rule—large and internationally active banking organizations (generally, bank holding companies, certain savings and loan holding companies, and depository institutions) with $250 billion or more in total assets or $10 billion or more in on-balance sheet foreign exposure—to maintain an amount of high-quality liquid assets that is no less than 100 percent of its total net cash outflows over a prospective 30 calendar-day period. (79 FR 61439, 78287)

- *Proprietary Trading*

  12 CFR 225, 248; Regulation Y, VV – Implemented section 619 of the Dodd-Frank Act, commonly referred to as the "Volcker Rule." (76 FR 8265; 77 FR 33949; 79 FR 5223, 5535)

- *Regulation LL*

12 CFR 238; Regulation LL – Implemented the Dodd-Frank Act mandated transfer of authority over savings and loan holding companies from the Office of Thrift Supervision to the Federal Reserve Board. (76 FR 56507)

- *Regulation MM*

12 CFR 239; Regulation MM – Implemented the Dodd-Frank Act mandated transfer of authority over mutual savings and loan holding companies from the Office of Thrift Supervision to the Federal Reserve Board. (76 FR 56507)

- *Resolution Plans*

12 CFR 243; Regulation QQ – Implemented the Dodd-Frank Act requirement that each bank holding company with assets of $50 billion and each designated nonbank financial company report the plan of such company for rapid and orderly resolution in the event of material financial distress or failure. (76 FR 67323)

- *Retail Foreign Currency Transactions*

12 CFR 240; Regulation NN – Permitted banking organizations to engage in off-exchange transactions in foreign currency with retail customers, so long as they comply with certain requirements. (78 FR 21019)

- *Securities Holding Companies*

12 CFR 241; Regulation OO – Implemented the Dodd-Frank Act provision permitting nonbank companies with a registered securities broker-dealer to register with the Board and subject themselves to supervision by the Board, if they are required by a foreign regulator to be subject to comprehensive consolidated supervision. (77 FR 32881)

- *Stress Tests: Company Run*

12 CFR 252; Regulation YY – Implemented the Dodd-Frank Act requirement that covered bank holding companies and savings and loan holding companies conduct internal stress tests. The various amendments to the rule described the requirements for different groups of covered companies, generally those with total assets between $10 and $50 billion and those with total assets more than $50 billion. (77 FR 62377, 62396; 78 FR 59779, 59791, 71435; 79 FR 13498, 14153, 64025)

- *Stress Tests: Supervisory*

12 CFR 252; Regulation YY – Implemented the Dodd-Frank Act requirement that the Board conduct annual stress tests of certain large bank holding companies. (77 FR 62377; 78 FR 59779, 71435; 79 FR 13498, 64025)

- *Supervision Assessments*

12 CFR 246; Regulation TT – Implemented the Dodd-Frank Act directive to collect assessments, fees, or charges equal to the estimated total expenses necessary to carry out the supervision of bank holding companies and savings and loan holding companies with total consolidated assets of $50 billion or more. (78 FR 52391)

- *Swaps Entities*

12 CFR 237; Regulation KK – Resolved an ambiguity in the Dodd-Frank Act prohibition of federal assistance to swap entities by providing that the term "insured depository institution" includes uninsured U.S. branches and agencies of foreign banks for purposes of this prohibition. (78 FR 34545; 79 FR 340)

- *Truth in Lending: Appraisals – Higher Priced Mortgage Loans*

12 CFR 226; Regulation Z – Implemented the Dodd-Frank Act amendment to the Truth in Lending Act requiring creditors to obtain an appraisal meeting certain standards for mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage. (78 FR 10367, 78519; 79 FR 78296)

- *Truth in Lending: Appraisals – Independence*

12 CFR 226; Regulation Z – Implemented the Dodd-Frank Act amendment to the Truth in Lending Act establishing new requirements for appraisal independence for consumer credit transactions secured by the consumer's principal dwelling. (75 FR 66553)

Rules issued pursuant to other statutory requirements
January 1, 2007 – July 31, 2015

- *Broker Exceptions for Banks*

12 CFR 218; Regulation R – Implemented certain exceptions for banks from the definition of the term "broker" under the Securities Exchange Act of 1934 to facilitate banks' compliance with the Securities Exchange Act and the Gramm-Leach-Bliley Act. (72 FR 56514)

- *Collection of Checks and Policy on Payment System Risk*

12 CFR 210; Regulation J – Amended the Policy on Payment System Risk related to the Board's procedure for posting debit and credit entries to institutions' Federal Reserve accounts for ACH and commercial check transactions. Also amended rules related to settlement procedures for when paying banks must make the proceeds available to the Reserve Banks. (79 FR 72107, 72112)

- *CRA: Asset-Size Thresholds (Annual Adjustment)*

12 CFR 228; Regulation BB – These amendments implemented the required annual adjustments to the asset-size criteria that define small and intermediate small institutions under the Community Reinvestment Act. (72 FR 72571; 73 FR 78153; 74 FR 68662; 75 FR 82217; 76 FR 79529; 77 FR 75521; 78 FR 79283; 79 FR 77852)

- *Debit Card Interchange*

12 CFR 235; Regulation II – Implemented the Electronic Fund Transfer Act standards for reasonable and proportional interchange transaction fees, exemptions from the fee limitations, prohibitions on card network exclusivity arrangements, and reporting requirements for issuers and card networks. (76 FR 43393, 43477; 77 FR 46258)

- *Employees of the Board*

12 CFR 261, 268 – Amended internal rules related to the Privacy Act of 1974 and Equal Employment Opportunity as they related to employees and former employees. (73 FR 17885; 75 FR 63703)

- *Fair Credit: Identity Theft Red Flags*

12 CFR 222; Regulation V – Implemented the Fair and Accurate Credit Transactions Act requirement that each financial institution or creditor to develop and implement an identity theft prevention program to detect, prevent, and mitigate identity theft in connection with opening or maintaining accounts. (72 FR 63718, 79 FR 30709)

- *Internet Gambling (prohibition of funding)*

12 CFR 233; Regulation GG – Implemented provisions of the Unlawful Internet Gambling Enforcement Act of 2006 to prohibit the funding of internet gambling. (73 FR 69381; 74 FR 62687)

- *Loans in Areas Having Special Flood Hazards*

12 CFR 208; Regulation – Implemented the Biggert-Waters Flood Insurance Reform Act of 2012 requirement that flood insurance payments on residential improved real estate securing

a loan be escrowed consistent with the Homeowner Flood Insurance Affordability Act of 2014. (80 FR 43215)

- *Management Interlocks*

  12 CFR 212; Regulation L – Implemented the Financial Services Regulatory Relief Act of 2006 increase of the asset threshold for exception to the interlock prohibition from $20 million to $50 million. (72 FR 1274, 38753)

- *Reserve Requirements: Exemption and Low Reserve Tranche (Annual Adjustment)*

  12 CFR 204; Regulation D – These amendments implemented the required annual adjustments to the reserve requirement exemption amount and the low reserve tranche, which are total reservable liabilities subject to a zero percent reserve requirement and the net transaction accounts subject to a three percent reserve requirement respectively. (72 FR 55655; 73 FR 57488; 74 FR 52873; 75 FR 65563; 76 FR 68064; 77 FR 65773; 78 FR 66249; 79 FR 68349)

- *Reserve Requirements: Interpretation (Monetary Policy)*

  12 CFR 204; Regulation D – Revised the interpretation to specify that the Board may determine, on a case-by-case basis, whether certain entities may become customers of bankers' banks. (72 FR 16987)

- *Reserve Requirements: Payment of Interest (Monetary Policy)*

  12 CFR 204; Regulation D – Implemented the Financial Services Regulatory Relief Act of 2006 and the Emergency Economic Stabilization Act of 2008, authorizing the Federal Reserve Banks to pay interest on balances held depository institutions at Reserve Banks. The interest rate on excess reserves gives the Federal Reserve an additional tool for the conduct of monetary policy. (73 FR 59482, 65506, 67713, 78616; 74 FR 25620; 80 FR 35565)

- *Reserve Requirements: Term Deposits (Monetary Policy)*

  12 CFR 204; Regulation D – Authorized Reserve Banks to offer term deposits, which are intended to facilitate the conduct of monetary policy by providing a tool for managing the aggregate quantity of reserve balances. (75 FR 24384)

- *Rules of Practice: Civil Money Penalties (Inflation Adjustment)*

  12 CFR 263 – Amended the Board's rules of practice and procedure to adjust the amount of each civil money penalty within its jurisdiction to account for inflation, as required by the Federal Civil Penalties Inflation Adjustment Act of 1990. (73 FR 58031; 77 FR 68680)

Rules issued that have sunsetted or have been superseded by subsequently issued rules
January 1, 2007 – July 31, 2015

- *Asset Backed Commercial Paper Lending Facility*

  12 CFR 208, 225; Regulations H, Y – Now sunsetted, the rule was implemented in response to the financial crisis to reduce liquidity strains being experienced by money market mutual funds. (73 FR 55706, 55708; 74 FR 6223, 6226)

- *Capital Adequacy: Advanced Approaches (2007)*

  12 CFR 208, 225; Regulations H, Y – The capital rules implemented in 2007 have since been superseded by the new capital framework and the associated, comprehensive capital rules implemented in 2013 (*see above*). (72 FR 69288; 73 FR 44620; 75 FR 4635; 76 FR 37620)

- *Capital Adequacy: Market-Risk (2012)*

  12 CFR 208, 225; Regulations H, Y – The market risk rule implemented in 2012 has since been superseded by the new capital framework and the associated, comprehensive capital rules implemented in 2013 (*see above*). (77 FR 53059)

- *Capital Adequacy: Risk Based Approaches (2007)*

  12 CFR 208, 225; Regulations H, Y – The capital rules implemented in 2007 have since been superseded by the new capital framework and the associated, comprehensive capital rules implemented in 2013 (*see above*). (72 FR 69288; 73 FR 62851, 63624, 79602; 74 FR 12076, 26077, 26081, 31160, 60137; 75 FR 4635; 76 FR 35959, 37620)

- *Temporary Affiliate Exemptions*

  12 CFR 223; Regulation W – Now sunsetted, the rule was implemented in response to the financial crisis to increase the capacity of member banks to enter into securities financing transactions with affiliates. (73 FR 54307; 74 FR 6225)

- *Term Asset-Backed Securities Loan Facility*

  12 CFR 201; Regulation A – Provided a process by which the Federal Reserve Bank of New York could determine the eligibility of credit rating agencies for the now closed Term Asset-Backed Securities Loan Facility, implemented in response to the financial crisis. (74 FR 65014)

- *Term Auction Facility*

  12 CFR 201; Regulation A – Now inactive, the rule was implemented in response to the financial crisis to allow the Board to authorize a temporary Term Auction Facility that allows

a depository institution to obtain an advance from its local Federal Reserve Bank. The final Term Auction Facility auction was conducted on March 8, 2010. (72 FR 71202)

Rules issued that have been transferred to other agencies pursuant to the Dodd-Frank Act
January 1, 2007 – July 31, 2015

- *Consumer Information*

  [Formerly Regulation P] – Now transferred to the CFPB, the rule implemented provisions of the Gramm-Leach-Bliley Act related to privacy of consumer information. (74 FR 62890; 79 FR 30708)

- *Equal Credit: Model Notices*

  [Formerly Regulation B] – Now transferred to the CFPB, the rule implemented provisions of the Equal Credit Opportunity Act requiring creditors to notify an applicant when taking adverse action against the applicant. (76 FR 41590)

- *Electronic Funds Transfer: Overdraft*

  [Formerly Regulation E] – Now transferred to the CFPB, the rule limited the ability of a financial institution to assess an overdraft fee for paying automated teller machine and one-time debit card transactions that overdraw a consumer's account. (74 FR 59033; 75 FR 31665)

- *Electronic Funds Transfer: Pre-paid Cards*

  [Formerly Regulation E] – Now transferred to the CFPB, the rule restricted a person's ability to impose dormancy, inactivity, or service fees for certain prepaid products, primarily gift cards. (75 FR 16579, 50683, 66644)

- *Fair Credit: Affiliate Marketing*

  [Formerly Regulation V] – Now transferred to the CFPB, the rule generally prohibited a person from using information received from an affiliate to make a solicitation for marketing purposes to a consumer. (72 FR 62910; 74 FR 22639)

- *Fair Credit: Duties of Furnishers*

  [Formerly Regulation V] – Now transferred to the CFPB, the rule issued the Fair and Accurate Credit Transactions Act of 2003 guidelines for use by furnishers regarding the accuracy and integrity of the information about consumers that they furnish to consumer reporting agencies. (74 FR 31484)

- *Fair Credit: Risk Based Pricing*

  [Formerly Regulation V] – Now transferred to the CFPB, the rule implemented the Fair and Accurate Credit Transactions Act of 2003 requirement that a creditor provide a risk-based pricing notice in connection with certain less favorable offers of credit. (75 FR 2723; 76 FR 41602)

- *Home Mortgage Disclosure: Definitions*
  12 CFR 203; Regulation C – Responsibility for amending these definitions is now transferred to the CFPB. Conformed the rule to the definition of "higher priced mortgage loan" adopted under Regulation Z (*see* Truth in Lending: Higher Priced Mortgage Loans). (73 FR 63329)

- *Home Mortgage Disclosure: Exemption Threshold (Annual Adjustment)*

  12 CFR 203; Regulation C – Responsibility for implementing this annual adjustment is now transferred to the CFPB. These amendments adjusted the asset size exemption threshold for depository institutions reporting under the Home Mortgage Disclosure Act. (72 FR 72234; 73 FR 78616; 74 FR 68498; 75 FR 80675)

- *Mortgage Loan Originators*

  12 CFR 208, 211; Regulations H, K – Responsibility for maintaining the databases is now transferred to the CFPB. The rule implemented the Secure and Fair Enforcement for Mortgage Licensing Act requiring an employee of a bank or savings association who acts as a residential mortgage loan originator to register with the Nationwide Mortgage Licensing System and Registry. (75 FR 51623)

- *Overdraft Fee Disclosure*

  [Formerly Regulation DD] – Now transferred to the CFPB, the rule required all depository institutions to disclose aggregate overdraft fees on periodic statements. (74 FR 5584; 75 FR 31673; 79 FR 30711)

- *Truth in Lending: Advertising*

  [Formerly Regulation Z] – Now transferred to the CFPB, this was one of four rules implemented together in response to the financial crisis and, in particular, to issues associated with mortgage lending. The rules: added protections to the newly-defined category of higher-priced mortgage loans secured by a consumer's principal dwelling; applied protections to mortgage loans secured by a consumer's principal dwelling regardless of loan price; required advertisements provide accurate and balanced information, while prohibiting several deceptive or misleading advertising practices; and required creditors provide consumers with transaction-specific mortgage loan disclosures within three business days after application. (73 FR 44522)

- *Truth in Lending: Closed-end Credit*

  [Formerly Regulation Z] – Now transferred to the CFPB, the rule implemented the Mortgage Disclosure Improvement Act of 2008 requirement that disclose certain summary information in a tabular format and state that consumers the ability to refinance is not guaranteed. (75 FR 58469, 81836)

- *Truth in Lending: Credit Secured by Primary Dwelling*

  [Formerly Regulation Z] – Now transferred to the CFPB, this was one of four rules implemented together in response to the financial crisis and, in particular, to issues associated with mortgage lending (*see* Truth in Lending: Advertising). (73 FR 44522)

- *Truth in Lending: Disclosures*

  [Formerly Regulation Z] – Now transferred to the CFPB, this was one of four rules implemented together in response to the financial crisis and, in particular, to issues associated with mortgage lending (*see* Truth in Lending: Advertising). (73 FR 44522; 74 FR 23289; 75 FR 7657)

- *Truth in Lending: Education Loans*

  [Formerly Regulation Z] – Now transferred to the CFPB, the rule implemented the Higher Education Opportunity Act disclosure and timing requirements that apply to creditors making private education loans. (74 FR 41194)

- *Truth in Lending: Higher Priced Mortgage Loans*

  [Formerly Regulation Z] – Now transferred to the CFPB, this was one of four rules implemented together in response to the financial crisis and, in particular, to issues associated with mortgage lending (*see* Truth in Lending: Advertising). (73 FR 44522)
- *Truth in Lending: Open-end Credit*

  [Formerly Regulation Z] – Now transferred to the CFPB, the rule applied several requirements to open-end (revolving) credit not secured by a home. The requirements included: disclosing fees and reasons penalty rates might be applied at time of applying for credit, providing a summary of key terms when terms are changed, disclosing in writing specific types of fees, and identifying interest and fees separately. (74 FR 36077; 75 FR 37525; 76 FR 22947)

- *Truth in Lending: Special Rules for Certain Home Mortgage*

  [Formerly Regulation Z] – Now transferred to the CFPB, this rule is a collection of requirements related to mortgages, including notifying consumers of the sale or transfer of their mortgage loans and prohibiting certain payments to loan originators and mortgage brokers. (74 FR 60143; 75 FR 58489, 58509; 76 FR 11319, 43111)

- *Truth in Lending: Trigger for Additional Disclosures (Annual Adjustment)*

  [Formerly Regulation Z] – Responsibility for implementing this annual adjustment is now transferred to the CFPB. These amendments adjusted the fee-based trigger for additional disclosures related to home mortgages, as required by the Home Ownership and Equity Protection Act of 1994. (72 FR 44032; 73 FR 46190; 74 FR 40477; 75 FR 46837; 76 FR 35723)

- *Unfair, Deceptive, Abusive Practices: Certain Credit Practices*

  [Formerly Regulation AA] – Now transferred to the CFPB, the rule prohibited institutions from engaging in certain acts or practices in connection with consumer credit card accounts. (74 FR 5498; 75 FR 7925)

Rules issued that are technical in nature
January 1, 2007 – July 31, 2015

- *Correcting cross-references, citations, or typographical errors*

  72 FR 70486; 73 FR 20779; 74 FR 17768, 17899, 32410; 75 FR 33681, 44093, 44655, 80675; 76 FR 31221; 77 FR 65097; 78 FR 34874, 76973; 79 FR 6077, 37166, 43232

- *Consumer Advisory Council no longer maintained*

  79 FR 64503

- *FOMC Rules of Procedure*

  78 FR 19981

- *Monetary policy adjustments to the credit rate*

  72 FR 48548, 54813, 56889, 63097, 71756; 73 FR 5727, 7202, 15861, 25505, 61657, 65967, 79306; 75 FR 9093

- *Rule issued and then withdrawn*

  74 FR 5244; 75 FR 7925

- *Updates to references to reserve bank branches and the associated routing symbols*

  72 FR 3706, 27951, 34596, 46143; 73 FR 1267, 8787, 28319, 41236, 47817, 52908, 70590, 77491; 74 FR 4909, 7785, 21245, 26515, 35113, 52875, 58537; 75 FR 219

- *Updates to mailing addresses for questions or complaints*

  72 FR 55020, 55020; 73 FR 33662, 53685; 76 FR 31451

Q.3. During the last EGRPRA review, Federal banking agencies hosted a total of 16 outreach sessions around the country. To date only six outreach sessions have been announced. During this current EGRPRA review, how many total outreach meetings will be held and will there be at least 16 meetings as before?

A.3. At this time, the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (the Agencies) have held or scheduled six outreach meetings. All meetings have been and will continue to be streamed live for public viewing over the Internet. The reaction from the public to being able to watch the meetings in real time has been very positive. It has also allowed the outreach meetings to reach a larger audience than was available during the last Economic Growth and Regulatory Paperwork Reduction Act review. In addition, the Agencies have scheduled one meeting that will focus specifically on the interests and concerns of rural depository institutions. This meeting, to be held at the Federal Reserve Bank of Kansas City, on Tuesday, August 4, will again be streamed live to allow viewing by anyone who does not participate in person. Online participants may provide oral comments during the meeting, subject to time constraints. In addition, online participants may elect to use the text chat feature to provide comments that will be saved as part of the record of the meeting. A toll free telephone number will also be provided for interested persons that wish to listen to the meeting but do not have computer access. The Agencies will monitor the need for additional meetings in response to industry interest.

Q.4. To date only one EGRPRA outreach meeting, focusing on rural banking issues, has been scheduled in Kansas City. How many more rural banking outreach meetings do you plan on scheduling? Given the diversity of rural banking needs around the country, in what other geographic regions would those meetings take place?

A.4. At this time, the Agencies are awaiting feedback from the industry and the results of the participation at the Kansas City outreach meeting in order to gauge the need for additional rural outreach meetings. Given the livestreaming of the meeting and the ability for persons from around the country to participate, we anticipate that there will be opportunities for all issues of interest to be aired or made part of the record. We remain open to additional meetings should industry response indicate there is a need for additional outreach meetings focusing on rural issues.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SASSE FROM MARYANN F. HUNTER

Q.1. Some are very concerned that implementing certain Basel III capital requirements relating to mortgage servicing could substantially alter business models adopted by banks in Nebraska and elsewhere designed to complete certain mortgage services on their own behalf and for other banks.

Have you completed or otherwise reviewed analyses that show whether the adoption of these requirements would affect mortgage servicing operations?

A.1. The Federal Reserve Board, the Office ofthe Comptroller of the Currency, and the Federal Deposit Insurance Corporation (Agencies) took careful action to ensure the revised regulatory capital rule appropriately reflects the risks inherent in banking organizations' business models. Prior to issuing the rule, the Agencies conducted a pro forma impact analysis that showed that the vast majority of community and midsized banking organizations (those with less than $10 billion in total assets) would meet the rule's minimum common equity tier 1 capital requirement of 4.5 percent plus the 2.5 percent capital conservation buffer on a fully phased-in basis (including the treatment of Mortgage Servicing Assets (MSAs)). The Agencies have long limited the inclusion of MSAs and other intangible assets in regulatory capital and believe the rule's treatment of MSAs contributes to the safety and soundness of banking organizations by mitigating against MSA market value fluctuations that may adversely affect banking organizations' regulatory capital base during periods of economic stress.

Q.2. If so, have these analyses shown that smaller institutions would limit mortgage servicing operations as a result?

A.2. Please see response for Question 1.

Q.3. What entities are likely to perform the mortgage servicing operations instead?

A.3. It is important to note that the revised regulatory capital rule does not prohibit mortgage servicing activity. The decision to engage in such activity is, in part, a function of a firm's preferred business model.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR COTTON FROM MARYANN F. HUNTER

Q.1. Has the Federal Reserve ever studied, or does it intend to study, the appropriate capital requirements for mortgage servicing assets held by nonsystemic banking institutions, separate from a generalized study of the impacts of the Basel III capital regime?

A.1. The Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (the Agencies) took careful action to ensure the revised regulatory capital rule appropriately reflects the risks inherent in banking organizations' business models. Prior to issuing the rule, the Agencies conducted a pro forma impact analysis that showed that the vast majority of community and midsized banking organizations (those with less than $10 billion in total assets) would meet the rule's minimum common equity tier 1 capital requirement of 4½ percent plus the 2½ percent capital conservation buffer on a fully phased-in basis (including the treatment of mortgage service assets). The Agencies have long limited the inclusion of mortgage service assets (MSAs) and other intangible assets in regulatory capital and believe the rule's treatment of MSAs contributes to the safety and soundness of banking organizations by mitigating against MSA market value fluctuations that may adversely affect banking organizations' regulatory capital base during periods of economic stress.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN FROM MARYANN F. HUNTER

Q.1. One of the most consistent things I hear from Kansas banks and credit unions is that they are continually being required to comply with new regulations that were never intended to affect them. I am in the process of drafting a small lending regulatory relief package along with Sen. Tester that seeks to address some of these problems by clarifying that small lenders are very different than the regulations' intended targets. Do you believe that some of the rules intended for our most complex financial institutions have trickled down to community banks? If so, what specific portions of the law under your individual area of jurisdiction have you identified as problematic for small lenders?

A.1. As we develop supervisory regulations and policies and examination practices, we are mindful of community bankers' concerns that new rules intended for complex financial institutions could be applied to community banks in a way that is inappropriate. For that reason, our supervision examination process continues to be tailored to each organization's size, complexity, risk, profile, and condition. Further, to promote appropriate implementation of new regulations and supervisory policies, the Federal Reserve continues to devote significant resources and time to training our examiners and communicating with examiners about the goals of a new regulation or guidance for community banking organizations.

In developing a new regulation or policy, the Federal Reserve weighs the burden on banks to implement new requirements against the need to safeguard the safety and soundness of the financial system in context of the statutory requirements. We recognize that the cost of compliance can be disproportionally greater on smaller banks versus larger institutions, as they have fewer staff available to help comply with additional regulations. Therefore, working within the requirements of the law, we attempt to develop regulations that impose requirements that are appropriate for community banks and that do not impose unnecessary or unduly burdensome requirements to implement. This is evident in many of the Federal Reserve regulations implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act, where the most stringent requirements only apply to the largest and most complex banking organizations and not to community banks.

To assist community banks in understanding how a new rule could possibly affect their business operations, the Federal banking agencies have issued supplemental guides that focus on which rule requirements are most applicable to community banks. For example, the Federal banking agencies issued supplemental guides for the capital requirements issued in July 2013, as well as the Volcker rule issued in December 2013. [1]

Q.2. The burden of regulation does not necessarily come from a single regulation, but the aggregate burden of regulations, guidance,

[1] The Federal Reserve, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC), "New Capital Rule: Community Bank Guide", July, 9, 2013, *www.federalreserve.gov/bankinforeg/basel/files/capital__rule__community__bank__guide__20130709.pdf; and the Federal Reserve, FDIC, and OCC, "The Volcker Rule: Community Bank Applicability", December 10, 2013, www.federalreserve.gov/newsevents/press/bcreg/bcreg20131210a4.pdf.*

and size-inappropriate best practices. The burden grows when small lenders are required to comply with several new rules concurrently. In isolation, the impact of one regulation may appear small, but when added to the growing list of compliance requirements, the cost is skyrocketing. What are you doing to identify and reduce aggregate burden?

A.2. Besides the regulatory review mandated by Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA), the Federal Reserve periodically reviews existing supervisory guidance to assess whether the guidance is still relevant and effective. For instance, the Federal Reserve conducted a policy review of the supervision programs for community and regional banking organizations to make sure the programs and related supervisory guidance are appropriately aligned with current banking practices and risks. The project entailed an assessment of all existing supervisory guidance that apply to community and regional banking organizations to determine whether the guidance is still appropriate. As a result of this review, we are likely to eliminate some guidance that is no longer relevant and update other guidance for appropriateness to current supervisory and banking industry practices and relevance to the risks to these institutions.

Q.3. The EGRPRA process was brought about to identify redundant or excessively burdensome regulation. I think the EGRPRA process has the potential to be an important tool to begin rebuilding some semblance of trust between Federal regulators and the financial institutions they oversee. However, the first iteration revealed little agency will to utilize the process. Resulting reductions in regulatory burden were, in a word, insignificant. Various EGRPRA listening sessions have been conducted across the country. What is the most consistent message you are hearing from participants? What are you doing differently in the current EGRPRA review, and what actual, tangible relief can our smallest lenders expect?

A.3. The most consistent message provided by commenters in this EGRPRA review is that the Federal Reserve, OCC, and the FDIC (the Agencies) must consider the impact our regulations have on our institutions, especially on community banks; that the Agencies should coordinate as much as possible to minimize the effect of overlapping regulations; and that the agencies should reduce regulatory burden as much as is possible.

The Agencies are conducting the current EGRPRA review with a focus on the effect of regulatory burden on insured community depository institutions. In each of the outreach meetings held to date, the Agencies invited representatives of smaller banking organizations to present their views directly to participating agency principals and staff. The institutions represented a variety of charters, geographic locations, and size. In addition, the Agencies have scheduled a public meeting at the Federal Reserve Bank of Kansas City that is specifically targeted to the concerns of banks in rural markets. This meeting will provide conferencing capability and two-way live stream capability from some of the other offices of the Kansas City Reserve Bank to enable management of depository institutions that are not located near the Reserve Bank to have the opportunity to participate in the meeting. The Agencies also continue to invite the public to provide written comments through the EGRPRA Web site, *http://egrpra.ffiec.gov/,* on any regulations that they believe are outdated, unnecessary or unduly burdensome.

The Federal Reserve is reviewing regulations as a result of the comments received and, where possible, taking measures to alleviate burden on insured community depository institutions. For example, the Federal Reserve recently issued a final rule on April 9, 2015, to expand the applicability of its Small Bank Holding Company Policy Statement and also apply it to certain savings and loan holding companies. The policy statement facilitates the transfer of ownership of small community banks and savings associations by allowing their holding companies to operate with higher levels of debt than would normally be permitted. Although holding companies that qualify for the policy statement are excluded from consolidated capital requirements, their depository institution subsidiaries would continue to be subject to minimum capital requirements. The final rule raises the asset threshold of the policy statement from $500 million to $1 billion in total consolidated assets and also expands the application of the policy statement to savings and loan holding companies. The final rule implements a law passed by the Congress in December 2014, and became effective on May 15, 2015.

Q.4. Major changes to mortgage disclosures and timing requirements are set to go into effect on August 1st of this year. These regulatory changes will impact every participant in the mortgage lending process and every consumer mortgage transaction. The financial institutions that are still engaged in residential mortgage lending are making every effort to be ready by the August deadline. I am concerned that, if poorly crafted or hastily implemented, these additional rules will result in fewer borrowing options in communities I represent as small lenders exit the business altogether. Are your respective examiners already being trained on how to assess these changes over the course of their reviews. Are your agencies prepared to be flexible in implementing these new rules while small institutions struggle to implement these changes effectively?

A.4. While the mandatory compliance date for the new Truth in Lending—Real Estate Settlement Procedures Act integrated disclosure rules was set by the Consumer Financial Protection Bureau (CFPB), we understand that the new rules are significant and complex. For that reason, we have conducted outreach to ensure the institutions we supervise are aware of and understand the new rules. Among other things, we have partnered with the CFPB on a series of instructive webinars through our Outlook Live platform. Outlook Live is an ongoing webinar series on consumer compliance issues, available to the public and our examiners. We also finalized and released interagency examination procedures on April 15, 2015, that our examiners will use and that are publicly available, and we are developing additional examiner training.

We expect our examiners to take into account the size and complexity of an institution and its products when deciding on the scope of and performing an examination. If mortgages are within scope, examiners will initially evaluate how an institution manages regulatory changes and overall efforts to come into compliance with the new mortgage rules. Among other things, examiners will consider the institution's implementation plan and actions taken to update the institution's policies, procedures, and processes. Reviews of individual loans covered by the new rules will not begin immediately after the effective date, as examiners generally review files that predate the examination. As with any new regulation, our goal is to work with the institutions we supervise to ensure they are on the right path.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TESTER FROM MARYANN F. HUNTER

Q.1. I remain concerned about consolidation in the industry. In a State like Montana we had 65 community banks before the crisis, and as of yesterday we had 54. That means a sixth of our institutions have either gone out of businesses or consolidated with some of the larger institutions. I'm concerned that if consolidation continues the whole nature of small institutions being able to serve, particularly rural communities, is going to disappear.

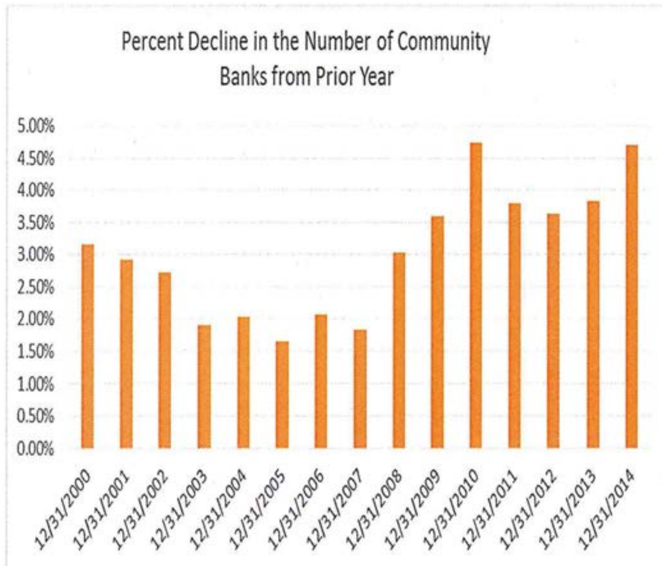
Can you tell me what trends you've seen with respect to community bank consolidation since the crisis and how this rate compares to before the crisis?

A.1. As stated in my testimony, community banks have deep ties to their local communities, which give them firsthand perspectives on the local economic landscape; they focus on customer relationships and often look beyond traditional credit factors to consider unique borrower characteristics when making credit decisions. To that end, community banks are a critical component of our financial system and economy. The Federal Reserve recognizes the important role of community banks and seeks to supervise them in a way that fosters their safe and sound operation without constraining their capacity to support the financial needs of their communities.[1]

According to data, the number of community banks declined 37 percent from 12/31/1999 to 12/31/2014.[2] Further, the annual rate of decline appears to have increased since the financial crisis. Figure 1 displays the annual percent decline in the number of community banks year over year.[3] As the chart illustrates, the percent decline by year has increased since the crisis, and does not show a clear sign of returning to pre-crisis levels. Prior to the crisis, the number of community banks declined an average of 2.3 percent per year; while since the crisis, the number of community banks has declined an average of 3.9 percent per year.[4]

[1] Maryann F. Hunter, Deputy Director, Division of Banking Supervision and Regulation. Before the Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.
[2] A community bank is defined as an insured commercial bank with less than $10 billion in assets.
[3] The decline includes both failed banks and acquired banks.
[4] The pre-crisis years comprise 12/31/1999–12/31/2007, while the post-crisis years comprise 12/31/2008–12/31/2014.

Figure 1



This increase in post-crisis community bank consolidation may be driven, in part, by banks acquiring less profitable community banks. The return on average assets (ROAA) is a standard measure of bank profitability. ROAA is a bank's net income divided by its average assets. As shown in Figure 2 below, community banks that were acquired in the years following the crisis tended to have lower ROAA than banks that were not acquired during the same years. This has not always been the case. As Figure 2 also illustrates, in the 4 years immediately preceding the crisis, the average ROAA of community banks that were acquired actually exceeded that for banks that were not acquired.[5] This may suggest that, post-crisis, profitable banks continue to find opportunities to expand, but are currently focused on acquiring less profitable banks.

[5] Analysis excludes failed banks.

Figure 2

	% Decline in Community Banks from Prior Year (excluding failed banks)	ROAA in Prior Year for Surviving Banks	ROAA in Prior Year of Acquired Banks
12/31/2000	3.15%	1.16%	1.69%
12/31/2001	2.93%	1.15%	1.09%
12/31/2002	2.72%	1.06%	0.93%
12/31/2003	1.91%	1.13%	0.99%
12/31/2004	2.04%	1.12%	1.43%
12/31/2005	1.66%	1.14%	1.21%
12/31/2006	2.08%	1.18%	1.40%
12/31/2007	1.84%	1.15%	1.20%
12/31/2008	3.04%	0.98%	0.80%
12/31/2009	3.59%	0.42%	0.31%
12/31/2010	4.75%	0.08%	-0.06%
12/31/2011	3.80%	0.38%	-0.08%
12/31/2012	3.63%	0.60%	0.55%
12/31/2013	3.83%	0.85%	0.47%
12/31/2014	4.71%	0.92%	0.74%

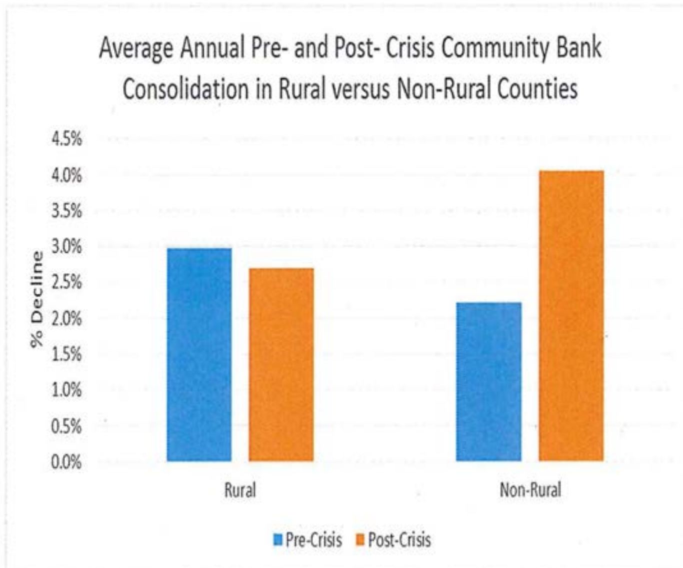
This trend, however, does not extend to rural banks. Rather, the pre- and post-crisis differences in community bank consolidation appear to be driven by banks outside rural areas. For purposes of this response, rural is defined using the USDA's Rural-Urban Continuum codes, also known as Beale codes.

According to the Beale codes, a rural area is defined as either:

1. Non-metro—Completely rural or less than 2,500 urban population, adjacent to a metro area
2. Non-metro–Completely rural or less than 2,500 urban population, not adjacent to a metro area

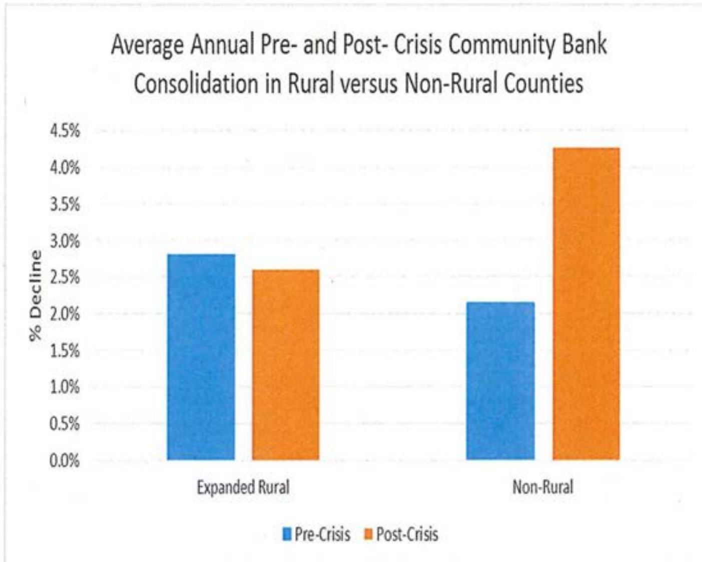
As shown in Figure 3, pre- and post-crisis consolidation since 12/31/1999 is very similar for rural banks, while the average annual rate of consolidation for urban community banks was much higher post-crisis than pre-crisis. In fact, at rural community banks, the average annual rate of post-crisis consolidation was lower than the pre-crisis rate.

Figure 3



The Beale definition of rural counties is fairly restrictive, only 11 percent of community banks were located in rural counties. However, if we expand that definition to also include counties with small urban populations (2,500–19,999) that are not adjacent to a metropolitan area, which then encompasses 23 percent of community banks as of 12/31/2014, we find a similar pattern (see Figure 4).

Figure 4



To summarize, community bank consolidation has increased somewhat since the financial crisis and banks appear to be acquiring less profitable banks. This post-crisis increase in consolidation does not appear to have impacted rural banks, however. The average annual rate of consolidation for rural community banks remains just over 2.5 percent, well below the post-crisis rate of non-rural community bank consolidation.

Q.2. Why do you think we are seeing this in the industry?

A.2. Please see the response to Question 1.

Q.3. Are you seeing a difference in consolidation in urban areas vs. rural areas? And specifically, what impact does this consolidation have on rural parts of the country?

A.3. Please see the response to Question 1.

Q.4. What do you consider to be the biggest threat to small institutions livelihood and what are you all doing to address those risks?

A.4. The Federal Reserve understands that the cost of compliance can be disproportionately greater on smaller banks when compared to larger institutions, as they have fewer staff available to help comply with additional regulations. As such, the Federal Reserve continues to make clear distinctions between requirements applicable to community banks and those applicable to larger institutions, especially those resulting from the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Efforts to communicate these distinctions and clarify supervisory expectations for community banks include adding a statement of applicability to community banks on newly issued guidance and issuance of supplemental guidance for to clarify expectations related to stress testing and implementation of the Volcker Rule and Basel III. Most important, new guidance aimed at community banks is issued only when necessary to support significant safety and soundness objectives. The Federal Reserve also continues to refine its supervisory program for community banks by enhancing its ability to risk focus community bank examinations. By placing community banks into one of three risk categories—low, medium, or high—based on risk information gleaned from financial reports, a greater proportion of resources and activities can be redirected from the smaller, lower risk institutions to those engaging in higher risk activities. Additionally, staff throughout the Federal Reserve System are conducting more examination work offsite, which can relieve some of the burden associated with the onsite examination process.

Through interaction with the Community Depository Institutions Advisory Council, comprised of representatives from various segments of the national banking industry, Board members receive regular firsthand input on matters of importance to community banks. These matters will continue to be explored and addressed under the direction of a special subcommittee of the Board, which focuses on reviewing the effects of regulatory actions on community and regional banks because community banks continue to be an important part of our financial system.

Q.5. Can you elaborate on how your review is going and share with us the major areas of consensus the agencies and the industry have found so far?

A.5. In accordance with the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA), the Federal Reserve, the other Federal banking agencies, and the Federal Financial Institutions Examination Council are conducting a review of regulations to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions. The major categories of regulations covered in the review include: applications and reporting; powers and activities; international operations; banking operations; capital; the Community Reinvestment Act; consumer protection; directors, officers, and employees; money laundering; rules of procedure; safety and soundness; and securities. The agencies are soliciting comments on their regulations through notices in the *Federal Register.*[6] As explained in the March 6, 2015, interagency letter to Senator Shelby, the agencies have decided to expand the scope of the EGRPRA review in order to be as inclusive as possible. Accordingly, the agencies will solicit comment on all of our regulations issued in final form up to the date that we publish our last EGRPRA notice for public comment.

As part of the EGRPRA review process, the agencies are holding several outreach meetings with bankers, consumer groups, and other interested parties to engage individuals in a public discussion about the agencies' regulations.

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[6] To date, the Board of Governors of the Federal Reserve System, FDIC, and OCC have issued two notices as announced in joint press releases on June 4, 2014, (*www.federalreserve.gov/newsevents/press/bcreg/20140604a.htm*) and February 20, 2015, (*www.federalreserve.gov/newsevents/press/bcreg/20150220a.htm*).

The agencies have conducted two outreach meetings to date in Los Angeles and Dallas. Additional outreach meetings are scheduled for the coming months, including: Boston on May 4, 2015; Kansas City on August 4, 2015; Chicago on October 19, 2015; and Washington, DC, on December 2, 2015. The Kansas City outreach meeting will focus more specifically on issues affecting rural institutions.

Several themes have arisen so far from discussions at the outreach meetings. A recurring theme has been the question of whether the agencies could reevaluate the various thresholds and limits imposed in regulations that may constrain community banks and their lending activities. For example, community bankers in rural areas have noted that it can be difficult to find an appraiser with knowledge about the local market at a reasonable fee. Bankers have asked the agencies to consider increasing the dollar threshold in the appraisal regulations for transactions below which an appraisal would not be required, which could allow them to use a less-formal valuation of collateral for a larger number of loans.

A number of community banks have also suggested reducing burden from the required quarterly filing of the Consolidated Reports of Condition and of Income, commonly called the Call Report. Working through the Federal Financial Institutions Examination Council, the Federal Reserve is considering ways the agencies could respond to industry concerns about Call Report filing requirements and assess the potential impact of collecting less data from banks.

Bankers have also asked whether the agencies could review the statutorily mandated examination frequency for banks, which varies based on a bank's asset size and condition, as a way to ease burden from frequent onsite examinations. Other bankers have commented that some longstanding interagency guidance may now be outdated and warrant a fresh look and revision. The agencies are still weighing these comments and will consider all the feedback received in the assessment of their regulations.

Q.6. Can you share anything about your future plans as this review moves forward?

A.6. We are considering the comments received through the EGRPRA process, as well as information obtained from the supervisory process, to undertake certain initiatives. In this regard, we are taking steps to tailor and improve our examination processes to be more efficient and effective and less burdensome on lower-risk community banks. For instance, we are equipping our Federal Reserve examiners with technological tools that enable them to conduct more work offsite and to focus their attention on the areas of highest risk. With these new tools, examiners are able to conduct some aspects of the loan review process offsite for banks that maintain electronic loan records and have the technical capability. We are also seeking ways to utilize the financial information collected from banks to tailor the examination process for institutions with lower risk profiles.

In addition to the EGRPRA review, the Federal Reserve periodically reviews its existing supervisory guidance to assess whether the guidance is still relevant and effective. For instance, the Federal Reserve recently completed a policy review of the supervision programs for community and regional banking organizations to make sure the programs and related supervisory guidance are appropriately aligned with current banking practices and risks. The project entailed an assessment of all existing supervisory guidance that apply to community and regional banking organizations to determine whether the guidance is still appropriate. As a result of this review, we are likely to eliminate some guidance that is no longer relevant and to update other guidance for appropriateness to current supervisory and banking industry practices and relevance to the risks to these institutions.

Recently, the Board issued an interim final rule and proposed rule to implement Public Law 113–250, which was enacted by the Congress and signed into law by the President in December 2014. Effective immediately, the interim final rule adopted by the Board excludes small savings and loan holding companies with less than $500 million in total consolidated assets that meet certain qualitative requirements from the Board's regulatory capital requirements. This effectively places these savings and loan holding companies on equal footing with comparably sized bank holding companies that are subject to the Board's Small Bank Holding Company Policy Statement (policy statement), which fosters local ownership of small community banks by allowing their holding companies to operate with higher levels of debt than would otherwise be permitted.

On April 9, the Board issued a final rule to raise the asset size threshold from $500 million to $1 billion for determining applicability of the policy statement, and expand its scope to include savings and loan holding companies. Holding companies subject to the policy statement are not subject to the Board's regulatory capital requirements, although regulatory capital requirements will continue to apply at the depository institution level.

In an action related to the expansion of the policy statement's scope, the Board took steps to relieve regulatory reporting burden for bank holding companies and savings and loan holding companies that have less than $1 billion in total consolidated assets and meet the qualitative requirements of the policy statement. Specifically, the Board eliminated quarterly and more complex consolidated financial reporting requirements (FR Y-9C) for these institutions, and instead required parent-only financial statements (FR Y-9SP) semiannually. The Board also eliminated all regulatory capital data items that were to be reported on the FR Y-9SP for savings and loan holding companies with less than $500 million in total consolidated assets. The Board made these changes effective on March 31, 2015, and immediately notified the affected institutions, so they would not continue to invest in system changes to report revised regulatory capital data for only a short period of time.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN SHELBY FROM TONEY BLAND

Q.1. According to the OCC, the Federal banking agencies have agreed to undertake a comprehensive review of all Call Report items and schedules. When will this review be completed? Who from your agency is in charge of this review? Will this review result in a formal, publicly available report?

A.1. At the December 2014 meeting of the Federal Financial Institutions Examination Council (FFIEC), Council members directed the Council's Task Force on Reports (Task Force) to undertake the Task Force's recommendations to address concerns raised by bankers about the burden of preparing the Consolidated Reports of Condition and Income (Call Report). This formal initiative is intended to identify potential opportunities to reduce burden associated with the Call Report requirements for community banks.

The comprehensive review of all Call Report items and schedules is one of the actions under this initiative. Section 604 of the Financial Services Regulatory Relief Act of 2006 requires the Federal banking agencies to "review the information and schedules that are required to be filed by an insured depository institution" in the Call Report. The deadline for the next statutorily mandated review is the fourth quarter of 2017. The Task Force and the agencies have accelerated the start of this review of the existing Call Report items and schedules to 2015. This review is planned for completion by the fourth quarter 2017 statutory deadline.

In conducting the comprehensive review, the Task Force and the agencies will require Call Report users at the agencies to provide more robust justifications than in previous reviews. Users would need to explain how they use each data item, the frequency with which it is needed, and the population of institutions from which it is needed. Data items or schedules for which users provide insufficient justification for continued collection from some or all institutions in all four quarters would be candidates for elimination, less frequent collection, or the creation of a new, or an upward revision of an existing, reporting threshold, which can be size-and/or activity-based. Call Report schedules would be prioritized for review over the next 2 years based on their perceived burden. Burden-reducing Call Report changes identified as a result of this review would be proposed on a flow basis annually as they are identified rather than waiting until the completion of the entire comprehensive review.

Another action under this initiative, at the request of the Council, is that the Task Force will develop a set of guiding principles as the basis for evaluating potential additions or deletions of data items to and from the Call Report.

The Office of the Chief Accountant is in charge of the review for the OCC. The agencies will publicly propose to implement burden-reducing Call Report changes identified as a result of this review in joint *Federal Register* notices that will be issued for comment in accordance with the Paperwork Reduction Act.

Q.2. Kansas Fed President, Esther George, said at a 2014 conference that the community bank "business model is one in which the incentives of banks are aligned with outcomes that benefit their customers and the economy. When incentives are aligned in this way, the need for an 'ability to repay rule.' for example, seems unnecessary."

Do you agree that banks that hold mortgages on portfolio have a vested interest to perform an analysis of a customer's ability to repay irrespective of whether such mortgage meets the requirements of a "Qualified Mortgage"?

Do you agree that mortgages held on portfolio should be afforded a "Qualified Mortgage" status? If not, why not?

A.2. Regardless of whether a residential mortgage loan is a Qualified Mortgage (QM) or non-QM, and whether or not it is held in a bank's portfolio, the OCC expects institutions to underwrite residential mortgage loans in a prudent fashion and address key risk areas in their residential mortgage lending, including loan terms, borrower qualification standards, loan-to-value limits, and documentation requirements. Institutions also should apply appropriate portfolio and risk management practices. Our expectations are outlined in the OCC's Comptroller's Handbook booklet, "Mortgage Banking".

Q.3. In your testimony you acknowledged that the Volcker Rule contains no exemption for community banks, and that the regulatory burden is not justified by the risk these institutions present. The OCC has drafted a legislative proposal to exempt from the Volcker Rule banks with total consolidated assets of $10 billion or less. What is the basis for the $10-billion threshold? Would a different threshold or criteria be more appropriate?

A.3. The risks to the financial system of proprietary trading and owning or sponsoring private equity and hedge funds addressed by the Volcker Rule are far more significant when larger institutions engage in these activities than they are if community banks with assets of $10 billion or less do so. However, the Volcker Rule contains no exemption for community banks. Accordingly, community banks need to ascertain whether their activities are covered by the Volcker Rule in order to understand whether they have any compliance obligations. Making this determination may require them to expend money and resources—for example, by hiring attorneys and consultants.

The OCC's proposed exemption applies to community banks with $10 billion or less in assets that do not have a holding company, as well as community banks that are part of a small holding company of $10 billion or less in assets. Small banks that are part of a larger holding company are not eligible for the exemption to ensure that large banking organizations are not able to take advantage of this exclusion by moving activities covered by the Volcker Rule to a small bank controlled by the organization. Exempting community banks from the Volcker Rule would relieve them of this regulatory burden and would allow the Federal bank regulatory agencies to more appropriately focus examination resources where the supervisory concern is greatest. The $10 billion threshold in the OCC's proposed exemption is consistent with the thresholds for small-size banks in the Dodd-Frank Act. Applying this method, we estimate that the amendment would exempt more than 6,000 small banks from the requirement to comply with the regulations implementing the Volcker Rule.

Q.4. The OCC also recommended increasing the asset-size threshold from $500 million to $750 million to determine whether a community bank can qualify for an examination every 18 months. What is the basis for the $750-million threshold? Would a different threshold or criteria be more appropriate? Would you support allowing any institution to petition to qualify for an exam every 18 months?

A.4. The $750 million asset-size threshold will allow the Federal banking agencies to focus their supervisory resources on those small depository institutions that may present capital, managerial, or other issues of supervisory concern, while simultaneously reducing the regulatory burden on small, well-capitalized and well-managed institutions. Under current law, asset size is not the only criterion for an institution to qualify for an 18-month examination cycle. The Federal banking agencies must also consider whether the institution is well-capitalized and well-managed, the composite rating of the institution, whether the institution is subject to an enforcement proceeding or order, and whether the institution has recently undergone a change in control. Setting the threshold at $750 million would allow more than 400 additional institutions to qualify for an 18-month on-site examination cycle if they meet these additional statutory criteria. The OCC's proposal is consistent with the incremental approach that Congress has taken over the years when increasing the threshold amount of assets that would permit a small depository institution to qualify for the 18-month examination cycle.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM TONEY BLAND

Q.1. The NCUA's testimony recommended a legislative change to provide the agency with examination and enforcement authority of third party vendors. In April 2013, the OCC testified that it would recommend a legislative change that would facilitate the OCC's ability to examine an independent contractor that does significant work for a bank and to take enforcement actions directly against independent contractors that engage in wrongdoing. Does OCC still support this type of legislative change?

A.1. Yes, the OCC continues to support the legislative changes that we recommended in April 2013, and that we subsequently shared with the Senate Banking Committee and the House Financial Services Committee in July 2013.

The language we drafted allows a Federal banking agency (FBA) to take enforcement action against an independent contractor that participates in the conduct of the affairs of, or conducts the business of, an insured depository institution, if the FBA can establish grounds to take such action under section 8 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. 1818. It also clarifies that an independent contractor participates in the conduct of the affairs of, or conducts the business of, an insured depository institution by performing services for the institution. Finally, the amendment clarifies that "unsafe or unsound practice" means "any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the possible consequences of which, if continued, would be abnormal risk or loss or damage to an institution, its shareholders, or the Deposit Insurance Fund."

The amendment would be useful in cases where an insured depository institution has outsourced significant activities to an independent contractor that engages in unsafe or unsound practices in providing services to the institution.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAPO FROM TONEY BLAND

Q.1. The first Economic Growth and Regulatory Paperwork Act (EGRPRA) review submitted to Congress in 2007 States: "Besides reviewing all of our existing regulations in an effort to eliminate unnecessary burdens. the Federal banking agencies worked together to minimize burdens resulting from new regulations and current policy statements as they were being adopted." The report submitted to Congress specifically discussed consumer financial regulations, anti-money laundering regulations, and recently adopted rules. However, included in the *Federal Register* for this 10-year review are two footnotes that suggest that CFPB rules, anti-money laundering rules, and new regulations that have recently gone into effect will not be included in the review.

Rather than predetermine which rules should or should not be reviewed, shouldn't the agencies review all existing regulations and eliminate or recommend statutory changes that are needed to eliminate any regulatory requirements that are outdated. unnecessary, or unduly burdensome?

A.1. The EGRPRA statute (12 U.S.C. 3311) requires the agencies to divide their regulations into categories and issue notices soliciting comment on those categories at regular intervals. Consistent with the purposes of the EGRPRA review, the agencies initially excluded newly issued regulations, those that had not yet taken effect, and those that had yet to be fully implemented. However, in order to be as inclusive as possible, the agencies intend to solicit comment on any of their regulations that have been finalized up to the date that we publish our last notice for public comment and to report back to Congress on all regulations.

Q.2. Does Congress need to update the EGRPRA statute to include the CFPB to ensure the review is comparable in scope to what was reviewed last time?

A.2. When Congress established the CFPB and transferred authority to issue rules under the enumerated consumer laws, it required the CFPB to undertake a review of its regulations at least once every 5 years. Currently, the agencies participating in the EGRPRA review will continue to forward any comments on CFPB rules received during the EGRPRA review to the CFPB for its consideration.

Q.3. If not, what specific steps will be taken to ensure that the review will include all existing regulations, including consumer financial regulations, anti-money laundering rules, and new regulations?

A.3. Congress transferred the authority to issue many consumer financial regulations to the CFPB, which is not required to undertake the EGRPRA review. Anti-money laundering rules are issued by the Financial Crimes Enforcement Network, which is also not required to undertake the EGRPRA review. During this decennial EGRPRA review, the Federal banking agencies will continue to forward comments on rules not issued by the Federal banking agencies to the appropriate agencies for their consideration.

Q.4. A main criticism of the last review was that the banking regulators subsequently repealed or eliminated only a few substantive regulations. To ensure that the current review has a more successful outcome, will your agencies set up a Government Web site that posts the feedback and list the 10 most burdensome regulations identified?

A.4. At the beginning of the EGRPRA review process, the Federal banking agencies established a dedicated Web site for the EGRPRA review, *http://egrpra.ffiec.gov,* which allows members of the public to submit comments and view all comments received during the EGRPRA process. In addition to the Web site, the agencies are Iive-streaming the EGRPRA outreach meetings to allow members of the public to hear and view comments made at those meetings. The agencies also intend to make public the report to Congress required by the EGRPRA statute that will identify unduly burdensome regulations.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORKER FROM TONEY BLAND

Q.1. Last Congress, legislation was introduced in the House (H.R. 2673, 113th Congress) that would provide financial institutions protection from the liability associated with Section 1411 of the Dodd-Frank Act, so long as the loan appears on the institution's balance sheet. I understand that the CFPB partially addressed this issue for some institutions through its Notice of Proposed Rulemaking. Please answer the following questions related to the proposed legislation:

Do you believe the proposed legislation would have a material impact on the safety and soundness of covered financial institutions?

If so, do you believe the current supervisory process and capital requirements are sufficient to address any perceived risks that may come from this change?

Do you have additional comments, concerns, or proposed changes to the legislation?

A.1. Sections 1411 and 1412 of the Dodd-Frank Act created new section 129C of the Truth in Lending Act (TILA), which requires lenders to assess consumers' ability to repay home loans before extending credit. Borrowers may be able to recover actual and special statutory damages for violations of section 129C and in foreclosure actions, may assert such violations as a matter of defense by recoupment or setoff. However, Section 129C also provides creditors a safe harbor and a presumption of compliance with the ability-to-repay requirement for a "qualified mortgage" (QM). The CFPB has implemented section 129C through amendments to Regulation Z, codified at 12 CFR Part 1026.43.

H.R. 2673, the Portfolio Lending and Mortgage Access Act, from the 113th Congress would amend TILA to provide that a QM includes all covered mortgage loans that a creditor holds in portfolio.

Regardless of whether a residential mortgage loan is a QM or non-QM, the OCC expects institutions to underwrite residential mortgage loans in a prudent fashion and address key risk areas in their residential mortgage lending, including loan terms, borrower qualification standards, loan-to-value limits, and documentation requirements. Institutions also should apply appropriate portfolio and risk management practices. Our expectations are outlined in the OCC's Comptroller's Handbook booklet, "Mortgage Banking".

Q.4. The Bipartisan Policy Center recently suggested creating a pilot program for a "consolidated examination force" for the institutions subject to supervision by all three of the Federal prudential regulators. Such a program would force coordination between the agencies and minimize the costs associated with examinations for banks. It appears that the Federal Financial Institutions Examination Council (FFIEC) could provide the vehicle to run the pilot program. Do you believe your agencies currently have the statutory authority to undertake such a joint pilot program through FFIEC? If so, why haven't the agencies taken steps to initiate such a pilot program?

A.4. The OCC is committed to fostering strong collaborative relationships with not only the other two Federal prudential regulators, the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve System (FRB), but also with the Consumer Financial Protection Bureau (CFPB) and international supervisors. This commitment to collaboration and coordination is reflected in the strategic initiatives that Comptroller Curry set forth for the agency and has been incorporated into the OCC's strategic plan and the business plans and performance goals for our supervisory lines of business and their managers. Our goal in such collaborative efforts is not only to minimize costs and burden on supervised institutions but also to enhance the effectiveness and efficiency of our supervision programs, ensure clear and consistent communication to banks' boards of directors and senior management, and avoid any supervisory gaps.

The Federal banking agencies have a long history of collaboration on key rulemakings and policy guidance. Indeed, most significant regulatory rules are promulgated on a joint, interagency basis. There is also strong collaboration at the local field level among our agencies' examiners and district offices. To further interagency coordination where we have shared jurisdiction, we have developed and implemented processes to share our supervisory strategies with the FDIC and FRB and collaborate with these agencies on safety and soundness examination programs for banks in our large and midsize bank programs.

These steps include sharing supervisory strategies and discussing key supervisory priorities with the FDIC and FRB for their input and feedback, meeting with local FRB and FDIC teams to discuss our supervisory plans to identify opportunities to leverage each other's planned work. As part of these efforts, we encourage and support efforts to collaborate on specific exams. Such collaboration can run the gamut from providing input to the scope of an examination to jointly conducting examinations. One prominent example of where we have coordinated specific examination work is the collective work programs we have developed to assess large banking organizations' compliance with the advanced approaches standards for the new capital rules. We likewise share relevant supervisory work products, such as Reports of Examination and Supervisory Letters, and access to our electronic record retention systems. We also consult on Matters Requiring Attention and other enforcement actions that affect organization structure, strategic direction, executive personnel, or have a material impact on the entity under the supervision of the other agency. Similar coordination efforts take place with the CFPB on consumer compliance related examination work.

We believe the processes we have implemented and that we continue to refine allow us to achieve the benefits of coordination and collaboration envisioned by the Bipartisan Policy Center, without the costs that a more structured, centralized process administered through the FFIEC would entail.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR HELLER FROM TONEY BLAND

Q.1. During the hearing, you stated, "But I would say that the OCC, as part of our normal practice, we look at on an ongoing basis whether rules are appropriate in terms of still relevant, and we will make changes, if they need to, without waiting for the next EGRPRA process." Within your respective agency's jurisdiction, please provide the number and a list of regulations your agency eliminated or changed due to irrelevance or undue burden since 2006 along with a brief description of each.

A.1. The following is a listing of regulations that the OCC has eliminated or modified to mitigate burden.

Rules Eliminated or Changed Due to Irrelevance or Undue Burden since 2006

Subject	*Federal Register* Publication Date	Agency/ies
1. Management Interlocks: To raise the small institution asset threshold for the management interlocks exception from $20 to $50 million.	July 16, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-07-16/pdf/07-3441.pdf	OCC, FRB, FDIC, OTS
2. Expanded Examination Cycle: To permit certain financial institutions to qualify for an 18-month, rather than 12-month, onsite examination cycle.	Sept. 25, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-09-25/pdf/07-4716.pdf	OCC, FRB, FDIC, OTS
3. Securities Offering Disclosure Rules: To eliminate the general requirement that a national bank in organization include audited financial statements as part of a public offering of its securities.	Mar. 6, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-03-06/pdf/E8-4382.pdf	OCC
4. Regulatory Review Amendments: To reduce or eliminate unnecessary regulatory burden, incorporate prior OCC interpretive opinions, harmonize OCC rules with those issued by other federal agencies, make technical and conforming amendments to improve clarity and consistency, among other things.	April 24, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-04-24/pdf/E8-8443.pdf	OCC
5. Capital: Deduction of Goodwill Net of Associated Deferred Tax Liability: To permit certain banking organizations to reduce the amount of goodwill that they must deduct from tier 1 capital.	Dec. 30, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-12-30/pdf/E8-30780.pdf	OCC, FRB, FDIC, OTS
6. Final Model Privacy Form: To permit use of a short form model notice developed by the agencies.	Dec. 1, 2009 http://www.gpo.gov/fdsys/pkg/FR-2009-12-01/pdf/E9-27882.pdf	OCC, FRB, FDIC, OTS, FTC, SEC, CFTC, NCUA

Q.2. Within your respective agency's jurisdiction, please provide the total number and a list of new rules and regulations that have been adopted since the last EGRPRA review along with a brief description of each.

A.2. A listing of the rules finalized by the OCC from Jan. 1, 2007, is attached (see Attachment 1). Some of these regulations implemented changes as a result of the last EGRPRA review process. Some were strictly ministerial such as the annual inflation adjustment for CRA determinations.

Attachment 1

OCC Final Rules: Jan. 1, 2007 – May 8, 2015

Subject	Federal Register Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
Special Lending Limits for Residential Real Estate Loans, Small Business Loans, and Small Farm Loans	June 7, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-06-07/pdf/E7-11014.pdf	June 7, 2007	OCC
Management Interlocks	July 16, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-07-16/pdf/07-3441.pdf	July 16, 2007	OCC, FRB, FDIC, OTS
Expanded Examination Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks	Sept. 25, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-09-25/pdf/07-4716.pdf	Sept. 25, 2007	OCC, FRB, FDIC, OTS
Fair Credit Reporting Affiliate Marketing Regulations	Nov. 7, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-11-07/pdf/07-5349.pdf	Jan. 1, 2008	OCC, FRB, FDIC, OTS, NCUA
Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003	Nov. 9, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-11-09/pdf/07-5453.pdf	Jan. 1, 2008 Compliance date: Nov. 1, 2008	OCC, FRB, FDIC, OTS, NCUA, FTC
Risk-Based Capital Standards: Advanced Capital Adequacy Framework — Basel II	Dec. 7, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-12-07/pdf/07-5729.pdf	April 1, 2008	OCC, FRB, FDIC, OTS
Community Reinvestment Act Threshold Adjustment	Dec. 21, 2007 http://www.gpo.gov/fdsys/pkg/FR-2007-12-21/pdf/E7-24719.pdf	Jan. 1, 2008	OCC, FRB, FDIC, OTS

Subject	<u>Federal Register</u> Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
Securities Offering Disclosure Rules	Mar. 6, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-03-06/pdf/E8-4382.pdf	April 7, 2008	OCC
Lending Limits	Mar. 20, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-03-20/pdf/E8-5724.pdf	Mar. 20, 2008	OCC
Regulatory Review Amendments	April 24, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-04-24/pdf/E8-8443.pdf	July 1, 2008	OCC
Assessment of Fees	Sept. 10, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-09-10/pdf/E8-20905.pdf	Sept. 10, 2008	OCC
Community Reinvestment Act Threshold Adjustment	Dec. 22, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-12-22/pdf/E8-30433.pdf	Jan. 1, 2009	OCC, FRB, FDIC, OTS
Minimum Capital Ratios; Capital Adequacy Guidelines; Capital Maintenance; Capital: Deduction of Goodwill Net of Associated Deferred Tax Liability	Dec. 30, 2008 http://www.gpo.gov/fdsys/pkg/FR-2008-12-30/pdf/E8-30780.pdf	Jan. 29, 2009	OCC, FRB, FDIC, OTS
Risk-Based Capital Guidelines—Money Market Mutual Funds	Mar. 27, 2009 http://www.gpo.gov/fdsys/pkg/FR-2009-03-27/pdf/E9-6864.pdf	Mar. 27, 2009	OCC

Subject	Federal Register Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments	Apr. 7, 2009 http://www.gpo.gov/fdsys/pkg/FR-2009-04-07/pdf/E9-7861.pdf	Apr. 7, 2009	OCC
Fair Credit Reporting Affiliate Marketing Regulations; Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003	May 14, 2009 http://www.gpo.gov/fdsys/pkg/FR-2009-05-14/pdf/E9-10009.pdf	May 14, 2009, with certain provisions effective Jan. 1, 2010	OCC, FRB, FDIC, OTS, NCUA
Procedures To Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies Under Section 312 of the Fair and Accurate Credit Transactions Act	July 1, 2009 http://www.gpo.gov/fdsys/pkg/FR-2009-07-01/pdf/E9-15323.pdf	July 1, 2010	OCC, FRB, FDIC, OTS, NCUA, FTC
Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Capital—Residential Mortgage Loans Modified Pursuant to the Home Affordable Mortgage Pgm	Nov. 20, 2009 http://www.gpo.gov/fdsys/pkg/FR-2009-11-20/pdf/E9-27776.pdf	Dec. 21, 2009	OCC, FRB, FDIC, OTS
Final Model Privacy Form Under the Gramm-Leach- Bliley Act	Dec. 1, 2009 http://www.gpo.gov/fdsys/pkg/FR-2009-12-01/pdf/E9-27882.pdf	Dec. 31, 2009, with certain provisions effective Jan. 1, 2012	OCC, FRB, FDIC, OTS, NCUA, FTC, CFTC, SEC
Community Reinvestment Act Threshold Adjustment	Dec. 29, 2009 http://www.gpo.gov/fdsys/pkg/FR-2009-12-29/pdf/E9-30646.pdf	Jan. 1, 2010	OCC, FRB, FDIC, OTS
Capital – FAS 167	Jan. 28, 2010 http://www.gpo.gov/fdsys/pkg/FR-2010-01-28/pdf/2010-825.pdf	Mar. 29, 2010	OCC, FDIC, FRB, OTS

Subject	Federal Register Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
Freedom of Information Act	April 8, 2010 http://www.gpo.gov/fdsys/pkg/FR-2010-04-08/pdf/2010-7940.pdf	May 10, 2010	OCC
Registration of Mortgage Loan Originators	July 28, 2010 http://www.gpo.gov/fdsys/pkg/FR-2010-07-28/pdf/2010-18148.pdf	Oct. 1, 2010 Compliance Date: Within 180 days for initial registrations beginning on date agencies provide in public notice that the registry is accepting registrations	OCC, FDIC, FRB, OTS, FCA, NCUA
Community Reinvestment Act: Higher Education	Oct. 4, 2010 http://www.gpo.gov/fdsys/pkg/FR-2010-10-04/pdf/2010-24737.pdf	Nov. 3, 2010	OCC, FDIC, FRB, OTS
Standards Governing the Release of a Suspicious Activity Report	Dec. 3, 2010 http://www.gpo.gov/fdsys/pkg/FR-2010-12-03/pdf/2010-29883.pdf	Jan. 3, 2011	OCC
Confidentiality of Suspicious Activity Report	Dec. 3, 2010 http://www.gpo.gov/fdsys/pkg/FR-2010-12-03/pdf/2010-29880.pdf	Jan. 3, 2011	OCC
Community Reinvestment Act: Neighborhood Stabilization Program	Dec. 20, 2010 http://www.gpo.gov/fdsys/pkg/FR-2010-12-20/pdf/2010-31818.pdf	Jan. 19, 2011	OCC, FDIC, FRB, OTS
Community Reinvestment Act Threshold Adjustment	Dec. 30, 2010 http://www.gpo.gov/fdsys/pkg/FR-2010-12-30/pdf/2010-32321.pdf	Jan. 1, 2011	OCC, FDIC, FRB, OTS

Subject	**Federal Register** Publication Date	**Effective Date (Compliance Date, if different)**	**Agency/ Agencies**
Capital: Establishment of a Risk-Based Capital Floor ("Collins Amendment")	June 28, 2011 http://www.gpo.gov/fdsys/pkg/FR-2011-06-28/pdf/2011-15669.pdf	July 28, 2011	OCC, FDIC, FRB
Retail Foreign Exchange Transactions: National bank off-exchange transactions in foreign currency with retail customers	July 14, 2011 http://www.gpo.gov/fdsys/pkg/FR-2011-07-14/pdf/2011-17514.pdf	July 15, 2011	OCC
OCC/OTS Integration regarding Organization and Functions, Availability and Release of Information, Postemployment Restrictions for Senior Examiners, and Assessment of Fees	July 21, 2011 http://www.gpo.gov/fdsys/pkg/FR-2011-07-21/pdf/2011-18231.pdf	July 21, 2011 (with certain provisions effective July 21, 2012, July 21, 2013, and Dec. 31, 2011)	OCC
OCC/OTS Integration: Republishing OTS Rules with Nomenclature and Other Technical Changes	Aug. 9, 2011 http://www.gpo.gov/fdsys/pkg/FR-2011-08-09/pdf/2011-17581.pdf	July 21, 2011	OCC
Retail Foreign Exchange Transactions: Federal thrift off-exchange transactions in foreign currency with retail customers	Sept. 12, 2011 http://www.gpo.gov/fdsys/pkg/FR-2011-09-12/pdf/2011-23033.pdf	Sept. 12, 2011	OCC
Community Reinvestment Act Threshold Adjustment	Dec. 22, 2011 http://www.gpo.gov/fdsys/pkg/FR-2011-12-22/pdf/2011-32727.pdf	Jan. 1, 2012	OCC, FDIC, FRB, OTS
Alternatives to External Credit Ratings	June 13, 2012 http://www.gpo.gov/fdsys/pkg/FR-2012-06-13/pdf/2012-14169.pdf	July 21, 2012 or Jan. 1, 2013 (depending on provision) *Final rule guidance*: Effective Jan. 1, 2015	OCC
Risk-Based Capital Guidelines: Market Risk	Aug. 30, 2012 http://www.gpo.gov/fdsys/pkg/FR-2012-08-30/pdf/2012-16759.pdf	Jan. 1, 2013	OCC, FDIC, FRB

Subject	Federal Register Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
Short Term Investment Funds	Oct. 9, 2012 http://www.gpo.gov/fdsys/pkg/FR-2012-10-09/pdf/2012-24375.pdf	July 1, 2013	OCC
Annual Stress Tests	Oct. 9, 2012 http://www.gpo.gov/fdsys/pkg/FR-2012-10-09/pdf/2012-24608.pdf	Oct. 9, 2012 Compliance date: Late 2013 for covered institutions with consolidated assets $10-50 billion, with the first disclosure of a summary of stress test results in 2015, based on the results of the 2014 stress tests. Larger institutions are subject to final rule on its effective date and must conduct their first stress test in 2012 with disclosure in 2013.	OCC
Civil Money Penalty: Inflation Adjustments	Nov. 6, 2012 http://www.gpo.gov/fdsys/pkg/FR-2012-11-06/pdf/2012-27074.pdf	Dec. 6, 2012	OCC
Community Reinvestment Act Threshold Adjustment	Dec. 21, 2012 http://www.gpo.gov/fdsys/pkg/FR-2012-12-21/pdf/2012-30775.pdf	Jan. 1, 2013	OCC, FDIC, FRB, OTS
Appraisals for Higher-Priced Mortgage Loans	Feb. 13, 2013 http://www.gpo.gov/fdsys/pkg/FR-2013-02-13/pdf/2013-01809.pdf	Jan. 18, 2014	OCC, FDIC, FRB, FHFA, CFPB, NCUA
Lending Limits	June 25, 2013 http://www.gpo.gov/fdsys/pkg/FR-2013-06-25/pdf/2013-15174.pdf	June 25, 2013 – Oct. 1, 2013 (depending on provision)	OCC

Subject	Federal Register Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
Domestic Capital and Leverage	Oct. 11, 2013 http://www.gpo.gov/fdsys/pkg/FR-2013-10-11/pdf/2013-21653.pdf	Jan. 1, 2014 (in most cases) Compliance date: Jan. 1, 2014 for advanced approaches banking organizations that are not savings and loan holding companies (SLHCs); Jan. 1, 2015 for all others	OCC, FRB
Appraisals for Higher-Priced Mortgage Loans: Supplementary Rule	Dec. 26, 2013 http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30108.pdf	Jan. 18, 2014 (with certain provisions effective July 18, 2015)	OCC, FDIC, FRB, FHFA, CFPB, NCUA
Community Reinvestment Act Threshold Adjustment	Dec. 30, 2013 http://www.gpo.gov/fdsys/pkg/FR-2013-12-30/pdf/2013-30960.pdf	Jan. 1, 2014	OCC, FDIC, FRB, OTS
Prohibitions and Restrictions on Proprietary Trading and Certain Interests In, and Relationships With, Hedge Funds and Private Equity Funds ("Volcker Rule")	Jan. 31, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-01-31/pdf/2013-31511.pdf	April 1, 2014 Compliance Date: Ranges from July 21, 2015 to July 21, 2017	OCC, FDIC, FRB, SEC
Treatment of Certain Collateralized Debt Obligations Backed Primarily by Trust Preferred Securities (TruPs) with Regard to "Volcker Rule"	Jan. 31, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-01-31/pdf/2014-02019.pdf	April 1, 2014	OCC, FDIC, FRB, SEC, CFTC
BASEL III Conforming Amendments: Cross-References, Subordinated Debt, and Limits Based on Regulatory Capital	Feb. 28, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-02-28/pdf/2014-04331.pdf	Mar. 31, 2014	OCC

Subject	Federal Register Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
Removal of Regulations For Which Rulemaking Authority Was Transferred to the Consumer Financial Protection Bureau Pursuant to Title X of the Dodd-Frank Act	Mar. 21, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-03-21/pdf/2014-05826.pdf	Mar. 21, 2014	OCC
Enhanced Supplementary Leverage	May 1, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-05-01/pdf/2014-09367.pdf	Jan. 1, 2018	OCC, FDIC, FRB
Integration of National Bank and Federal Thrifts Interagency Rules	May 16, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-05-16/pdf/2014-11406.pdf	June 16, 2014	OCC
Assessment of Fees	July 9, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-07-09/pdf/2014-16017.pdf	Aug. 8, 2014	OCC
Eligible Guarantee (Revisions to Domestic Capital Rule)	July 30, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-07-30/pdf/2014-17858.pdf	Oct. 1, 2014	OCC, FDIC, FRB
Heightened Expectations Guidelines	Sept. 11, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-09-11/pdf/2014-21224.pdf	Nov. 10, 2014 Compliance dates: Nov. 10, 2014 (for largest banks) and then phased in based on asset size	OCC
Supplementary Leverage (Denominator Revisions)	Sept. 26, 2014 https://www.fdic.gov/news/board/2014/2014-09-03_notice_dis_c_fr.pdf	Jan. 1, 2015 Compliance Date: Advanced approaches banking organizations must disclose supplementary leverage ratios beginning Jan. 1, 2015; must comply with a minimum	OCC, FDIC, FRB

Subject	Federal Register Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
		supplementary leverage ratio capital requirement of 3 percent and, as applicable, the eSLR standards beginning January 1, 2018.	
Enhanced Liquidity Standards: Liquidity Coverage Ratio (LCR)	Oct. 10, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-10-10/pdf/2014-22520.pdf	Jan. 1, 2015 Compliance Date: Phased in: Jan. 1, 2015 for minimum LCR of 80%; Jan. 1, 2016 for minimum LCR of 90%; Jan. 1, 2017, minimum LCR of 100%.	OCC, FDIC, FRB
Annual Stress Tests: Schedule Shift and Adjustments to Regulatory Capital Projections	Dec. 3, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-12-03/html/2014-28420.htm	Jan. 2, 2015 Compliance Date: Starting with Jan. 1, 2016 stress testing cycle.	OCC
Subordinated Debt (Amendment to Feb. 29, 2014 Final Rule)	Dec. 18, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-12-18/pdf/2014-29615.pdf	Jan. 1, 2015	OCC
Credit Risk Retention/Securitization	Dec. 24, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-12-24/pdf/2014-29256.pdf	Feb. 23, 2015 Compliance date: Dec. 24, 2015 for asset-backed securities (ABS) collateralized by residential mortgages; Dec. 24, 2016 for all other ABS.	OCC, FDIC, FRB, SEC FHFA, HUD
Community Reinvestment Act Threshold Adjustment	Dec. 29, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-12-29/pdf/2014-30256.pdf	Jan. 1, 2015	OCC, FRB, FDIC, OTS

Subject	<u>Federal Register</u> Publication Date	Effective Date (Compliance Date, if different)	Agency/ Agencies
Capital/Liquidity: Definition of "Qualifying Master Netting Agreement"	Dec. 30, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-12-30/pdf/2014-30218.pdf	Jan. 1, 2015	OCC, FRB
Appraisals for Higher-Priced Mortgage Loans Exemption Threshold Adjustment	Dec. 30, 2014 http://www.gpo.gov/fdsys/pkg/FR-2014-12-30/pdf/2014-30419.pdf	Jan. 1, 2015	OCC, FRB, CFPB

Q.3. During the last EGRPRA review, Federal banking agencies hosted a total of 16 outreach sessions around the country. To date only 6 outreach sessions have been announced. During this current EGRPRA review, how many total outreach meetings will be held and will there be at least 16 meetings as before?

A.3. To date, we have planned a total of six outreach meetings. Three have already taken place in Los Angeles on December 2, 2014, Dallas on February 4, 2015, and Boston on May 4. Our next outreach meetings are scheduled for Kansas City on August 4, Chicago on October 19, and Washington, DC, on December 2. These outreach meetings have, and will include a larger number of participants then during the last EGRPRA review. The previous outreach meetings were planned as smaller gatherings and included 50 or so bankers or consumer and community groups. The current outreach meetings are open to as many as 200 participants. In addition, the agencies are leveraging technology to broaden their reach to interested parties. For example, the current outreach meetings are all live-streamed on the EGRPRA.gov Web site, so that individuals throughout the country may watch and listen to the proceedings at no cost. Additionally, at our rural outreach meeting in Kansas City, bankers and consumer and community groups will have the opportunity to participate and provide comments via a two-way audio link. This technology was not available during the last EGRPRA process.

Q.4. To date only one EGRPRA outreach meeting, focusing on rural banking issues, has been scheduled in Kansas City. How many more rural banking outreach meetings do you plan on scheduling? Given the diversity of rural banking needs around the country, in what other geographic regions would those meetings take place?

A.4. We have scheduled one outreach meeting focused on rural banking issues in Kansas City on August 4, 2015. However, in addition to the in-person program and the live-stream on EGRPRA.gov, this meeting will support bankers' and consumer and community groups' participation and comments via a two-way audio link. The agencies believe that this will allow rural bankers and other interested parties from around the country to provide their input in the most cost-effective manner.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SASSE FROM TONEY BLAND

Q.1. Some are very concerned that implementing certain Basel III capital requirements relating to mortgage servicing could substantially alter business models adopted by banks in Nebraska and elsewhere designed to complete certain mortgage services on their own behalf and for other banks.

Have you completed or otherwise reviewed analyses that show whether the adoption of these requirements would affect mortgage servicing operations?

If so, have these analyses shown that smaller institutions would limit mortgage servicing operations as a result?

What entities are likely to perform the mortgage servicing operations instead?

A.1. The OCC, the FRB, and the FDIC (together, the agencies) took careful action to ensure the new capital rules appropriately reflects the risks inherent in banking organizations' business models. Consistent with the treatment of intangible assets generally, the inclusion of Mortgage Servicing Assets (MSAs) in regulatory capital has long been subject to strict limitations in the United States because of the high level of uncertainty regarding the ability of banking organizations to realize value from these assets, especially under adverse financial conditions. The agencies believe that the rules' treatment of MSAs contributes to the safety and soundness of banking organizations by mitigating against MSA market value fluctuations that may adversely affect banking organizations' regulatory capital bases.

As part of the rulemaking process, the agencies considered the potential impact of the regulatory capital rules on banking organizations subject to the requirements. The impact analysis was performed using regulatory reporting data, supplemented by certain assumptions and estimates if data needed for certain calculations were not available.

While the agencies conducted analyses that incorporated a range of assumptions, the general conclusion of each agency was that the vast majority of banking organizations, including community banking organizations, already have capital sufficient to meet the minimum requirements of the regulatory capital rules on a fully phased-in basis. They also have capital sufficient to exceed the fully phased-in capital conservation buffer, such that they would not face restrictions on distributions and certain discretionary bonus payments under the rule. With respect to the small number of banking organizations that currently have concentrations in MSAs that exceed the limits in the capital rules, we note the capital rules provide lengthy transition periods that should allow these firms sufficient time to modify their capital structure or adjust their business models to conform to the capital rules. The capital rules also maintain the risk-weighting from the prior risk-based capital rule for MSAs that are not deducted from regulatory capital during the transition period. Additionally, in response to comments, the agencies removed the proposed 90 percent fair value limitation on MSAs that were included in regulatory capital. Previously, the general risk-based capital rules included that treatment in conformance with section 475 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). However, FDICIA permits the agencies to remove that limitation if the agencies make a joint determination that its removal would not have an adverse effect on the deposit insurance fund or the safety and soundness of insured depository institutions.

Finally, to the extent some banking organizations pare back their mortgage servicing operations, such business would likely shift to other mortgage servicing firms that have the capacity to absorb the additional processes.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MORAN FROM TONEY BLAND

Q.1. One of the most consistent things I hear from Kansas banks and credit unions is that they are continually being required to comply with new regulations that were never intended to affect them. I am in the process of drafting a small lending regulatory relief package along with Sen. Tester that seeks to address some of these problems by clarifying that small lenders are very different than the regulations' intended targets. Do you believe that some of the rules intended for our most complex financial institutions have trickled down to community banks? If so, what specific portions of the law under your individual area of jurisdiction have you identified as problematic for small lenders?

The burden of regulation does not necessarily come from a single regulation, but the aggregate burden of regulations, guidance, and size-inappropriate best practices. The burden grows when small lenders are required to comply with several new rules concurrently. In isolation, the impact of one regulation may appear small, but when added to the growing list of compliance requirements, the cost is skyrocketing. What are you doing to identify and reduce aggregate burden?

A.1. As I noted in my written testimony, the OCC recognizes that community banks have different business models and more limited resources than larger banks. Therefore, where we have the legal flexibility, we factor these differences into the rules and guidance we issue, and we tailor our supervision to each bank's size and complexity. This allows us to avoid having the rules and provisions intended for the most complex banks trickle down to community banks.

The OCC has sought to minimize burden for community banks when developing regulations. For example, in revising the regulatory minimum capital rules we limited the application of many new provisions, including the supplementary leverage ratio and the countercyclical capital buffer, to the largest banking organizations that engage in complex or risky activities. In addition, to address the significant concerns expressed by community bankers, the agencies' final rules retained the previously existing capital treatment for residential mortgage exposures. Similarly, while all banks need to maintain adequate liquidity, community banks do not need the structured, explicit standards for liquid assets required for the largest banks. Therefore, we excluded community banks from our liquidity coverage rule. More recently, the agencies' risk retention rule allows all qualifying mortgages (QM) under the CFPB's mortgage rules to qualify as qualified residential mortgages (QRM), which should minimize the rule's impact on community banks that engage in securitization activities.

We also take steps to help community banks transition to new regulatory requirements. For example, the new capital standards are phased-in to give community banks more time to come into full compliance with the new rules. We also offer webinars and easy-to-understand, quick reference guides on new rules that may affect a significant number of community banks. Our recent guides have covered the banking agencies' new capital rules and the CFPB's new residential mortgage rules.

Q.2. The EGRPRA process was brought about to identify redundant or excessively burdensome regulation. I think the EGRPRA process has the potential to be an important tool to begin rebuilding some semblance of trust between Federal regulators and the financial institutions they oversee. However, the first iteration revealed little agency will to utilize the process. Resulting reductions in regulatory burden were, in a word, insignificant. Various EGRPRA listening sessions have been conducted across the country. What is the most consistent message you are hearing from participants? What are you doing differently in the current EGRPRA review, and what actual, tangible relief can our smallest lenders expect?

A.2. We take the EGRPRA mandate very seriously, as demonstrated by the attendance of the principals and senior staff from all three Federal banking agencies at the EGRPRA outreach meetings. We are committed to providing regulatory relief where possible, consistent with the safe and sound operation of the institutions we regulate.

The most consistent message we have heard so far in both written comment letters and at the outreach meetings is that community banks are finding it difficult to compete in this regulatory and economic environment. With respect to specific issues, community banks have noted, for example, that Call Reports should be simplified and revised to reduce duplicative reporting requirements; asset-size thresholds in our rules should be raised to account for inflation; and the asset-size threshold for the small bank examination cycle should be raised. Unlike the last EGRPRA review, we will not wait until the EGRPRA process is complete to implement changes at the OCC where a good case is made for regulatory relief. We will review all of the recommendations we receive, and where it is clear that a regulation is outdated, unnecessary, or unduly burdensome, we will act where we have the authority to do so.

Q.3. Major changes to mortgage disclosures and timing requirements are set to go into effect on August 1st of this year. These regulatory changes will impact every participant in the mortgage lending process and every consumer mortgage transaction. The financial institutions that are still engaged in residential mortgage lending are making every effort to be ready by the August deadline. I am concerned that, if poorly crafted or hastily implemented, these additional rules will result in fewer borrowing options in communities I represent as small lenders exit the business altogether. Are your respective examiners already being trained on how to assess these changes over the course of their reviews. Is your agency prepared to be flexible in implementing these new rules while small institutions struggle to implement these changes effectively?

A.3. The OCC works with other members of the FFIEC toward the development of uniform principles, standards, and guidance to achieve consistency in the supervision of financial institutions. To that end, the FFIEC's Task Force on Consumer Compliance has approved interagency examination procedures to reflect the Dodd-Frank Act amendments to the TILA and Real Estate Settlement Procedures Act (RESPA). In addition, the task force members collaborate on examination tools and training. The OCC is responsible for supervising the compliance of national banks and Federal savings associations with total assets of $10 billion or less with the TILA and RESPA. When the CFPB's mortgage rules became effective, OCC examiners focused their efforts on discussing the changes with bank management teams and reviewing the new policies and procedures institutions implemented to comply with these new regulatory requirements. When the OCC assesses compliance with the new rules, we will take a reasonable approach with respect to our supervisory response and take into consideration a bank's progress in implementing the rules. The OCC continues to update and enhance our training for examiners on the interagency examination procedures developed by the Task Force on Consumer Compliance of the FFIEC, as well as the other regulations that implement the Dodd-Frank Act amendments to the TILA and RESPA. The OCC also intends to work collaboratively with the other prudential regulators and the CFPB to devise and share training resources.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TESTER FROM TONEY BLAND

Q.1. I remain concerned about consolidation in the industry. In a State like Montana we had 65 community banks before the crisis, and as of yesterday we had 54. That means a sixth of our institutions have either gone out of businesses or consolidated with some of the larger institutions. I'm concerned that if consolidation continues the whole nature of small institutions being able to serve, particularly rural communities, is going to disappear.

Can you tell me what trends you've seen with respect to community bank consolidation since the crisis and how this rate compares to before the crisis?

A.1. Before describing recent consolidation activity, we note that consolidation in the banking industry has been steadily occurring since the mid-1980s, thus reflecting a long-term trend. That is, the number of banks and banking organizations, including smaller ones, has been steadily declining for the last 30 years.

Three different types of events account for most of the net change in the number of banks over time. One is mergers. The second is failures. The third is de novo entry or the opening of newly chartered institutions. The change in the number of community banks over time will also be affected by the migration of surviving institutions into the larger non-community bank group.

For purposes of the analysis below, the OCC looked at trends at the bank (rather than the holding company level) and used a $1 billion size threshold (in 2009 dollars) to define community banks. We also chose year-end 2007 to demarcate two time intervals, since recession-related bank failures did not start to increase until 2008. The 7 years ending on year-end 2007 (2001–2007) constitute the pre-crisis period. The following 7 years (2008–2014) are the post-crisis period.

Consolidation During the Pre-Crisis Period

Examining the three most important types of structural change individually is useful because they have differing causes and their contribution to the overall pace of consolidation can vary over time. At the start of the pre-crisis period, a total of 9,904 banks and thrifts existed in the United States. Of this total, 9,282 or 93.7 percent of all banks met the community bank definition used in this analysis. The asset share of community banks was 16.2 percent of total bank assets at that time.

As has been the case in the years prior to 2001, mergers accounted for much of the consolidation immediately prior to the crisis. For the 7-year period ending in 2007, 2,312 banks merged out of existence and 2012 (87.0 percent) were community banks. Relatively good economic conditions kept failures relatively low during the pre-crisis interval. A total of 21 banks failed and 18 of these were community institutions. Community bank numbers were supplemented by the 1,034 new banks that began operations in the pre-crisis period. Of the surviving 7,186 banks meeting the community bank definition at the start of the pre-crisis period, 302 exceeded the size threshold in 2007 and so were no longer counted as part of the community bank group.

By the end of the pre-crisis period, the number of banks fell to 8,534 (a 7-year change of -1,370). The number of community banks declined to 7,856 (a 7-year change of -1,426). Community banks still accounted for 92.1 percent of all banks at year-end 2007. The asset share of community banks also declined by about 5 percentage points over the pre-crisis period, from 16.2 to 11.4 percent.

Consolidation in the Post-Crisis Period

During the post-crisis period the number of all banks and community banks continued to fall. The number of all banks declined by 2,025 (-23.7 percent) from 2007–2014 while the number of community banks fell by 1,987 (-25.3 percent). Still in 2014, community institutions represented 90.2 percent of all banks at that time. The asset share of community banks decreased from 11.4 percent to 9.5 percent over the post-crisis period. But this decline of 1.8 percentage points is roughly half the asset share decline over the pre-crisis period (-4.8 percentage points).

Mergers continued to be the most prominent driver of consolidation. A total of 1,577 institutions merged during the post-crisis period and 1,417 of these were community banks. Not surprisingly, failures were considerably higher after 2007 than they were in the pre-crisis period. There were 506 bank failures from 2008–2014 and 442 were community banks. Approximately 145 new banks were chartered in the post-crisis period so there was much less of an offset to the decline in community banks stemming from mergers and failures. An additional 207 banks that met the community bank definition used for this analysis in 2007 survived until 2014 but had assets above the $1 billion threshold at the end of the post-crisis period and so contribute to the measured decrease in community banks.

Q.2. Why do you think we are seeing this in the industry?

A.2. A number of different factors have contributed to the banking consolidation and community bank decline evident since 2000. The elimination of geographic barriers to bank expansion, especially interstate expansion, in the mid-90s fueled merger activity. Banks merged to diversify geographically and reduce risk, to become larger and so lower costs through the realization of size-related economies, and to enter attractive new markets through the purchase of an existing franchise instead of the more expensive route of starting from scratch. Multibank holding companies also merged subsidiary banks that they already owned to lower costs. The removal of these geographic barriers also exposed banks to increased competition from more efficient organizations pressuring relatively inefficient ones to sell out. Changes in information processing and telecommunications technology also allowed out-of-market banks and nonbank firms to compete in local markets without having a significant brick-and-mortar presence. Attractive merger offers also induced some bankers to sell out to realize value for their shareholders. Bankers in rural markets also might be motivated to sell out due to slower rates of population and economic growth in nonurban areas.

The surge in failures during the post-crisis period contributed to consolidation after 2007. The severe recession, commercial real estate exposures and the large number of relatively vulnerable immature banks opened in the pre-crisis period contributed to the failure wave. The marked decline in new bank charters in the post-crisis period also promoted consolidation over the 2008–2014 period. Profit expectations of potential new bank organizers were undoubtedly adversely affected by the deep lengthy recession.

Q.3. Are you seeing a difference in consolidation in urban areas vs. rural areas?

And specifically, what impact does this consolidation have on rural parts of the country?

A.3. Consolidation is also evident in rural markets over both the pre- and post-crisis periods but the data show that community banks continue to play an important role in these markets in 2014.

In the analysis below a rural market is defined as a county that is not part of either a metropolitan or micropolitan statistical area. There are more than 1,300 such markets in the United States. On their financial reports, banks report consolidated data only for their headquarters location and so a bank is considered rural if its headquarters is located in a rural county.

Consolidation in Rural Markets During the Pre-Crisis Period

Virtually all of the banks in rural markets meet the community bank definition used here and so all of the discussion will focus exclusively on community bank consolidation. At the end of 2000, 2,541 community banks, accounting for $192.4 billion in total assets, were headquartered in 1,057 different rural markets. These community banks represented 27.4 percent of all community banks existing at this time and held 15.9 percent of total community bank assets.

During the pre-crisis period, 401 rural community banks disappeared through mergers and just five failed. Only five new banks were chartered in rural markets from 2001–2007 out of the industry total of 1,034. Thirteen of the 2,000 cohort of community banks survived in 2007 but exceeded the $1 billion asset threshold and so drop out of the community bank group. At the end of 2007, 2,097 community banks were headquartered in rural markets and accounted for roughly the same percentages of the total number and total assets of community banks that they did in 2000.

Consolidation in Rural Markets During the Post-Crisis Period

During the post-crisis period, 274 rural community banks merged. A total of 45 rural community banks failed in the 7 years after 2007. Given that 2,097 rural community banks existed in 2007, this implies a failure rate of 2.1 percent. The comparable failure rate for all community banks over this period is 5.6 percent (442 failures divided by 7,856 community banks existing in 2007) which indicates that urban community bank failure rates were higher than they were for rural community banks. As in the pre-crisis periods only a handful (six) of new banks were chartered in rural markets accounting for 4 percent of all new banks opened after 2007. A total of 17 of the 2007 cohort of community banks survived until 2014 but grew out of the community bank group.

At the end of 2014, 1,725 rural community banks continued to exist with total assets of $273 billion. These numbers represented 29.4 percent of all community banks and 18.4 percent of all community bank assets in 2014, which were both slightly higher than the comparable figures in 2007. Community banks are headquartered in 880 different rural markets in 2014. The number of community banks in rural markets fell by 372 during the post-crisis period.

One disadvantage in using data from bank financial reports to analyze changes in consolidation at the local level is that the information does not reveal the extent of bank operations in all of the geographic markets where they operate. This lack of detail is important because most banks operate in more than a single geographic area and it is not unusual that significant percentages of assets and income come from offices outside the locality they are headquartered. There is another data source called the Summary of Deposits (SOD) produced annually by the FDIC which can provide additional insight on consolidation in local markets. This data shows the geographic location of each bank and thrift office in the United States on June 30 of each year along with the deposits in that office. In particular, SOD data can show the percentage of deposits in local markets controlled by institutions that are not local community banks. One reason observers are concerned about the impact of consolidation on community banks is the possibility that such institutions will be acquired or replaced in local markets by larger banks that are headquartered elsewhere. The presumption is that these larger institutions will be unwilling or unable to serve customers in rural markets.

With SOD data it is possible to measure the extent to which bank affiliates of holding companies headquartered out-of-State control deposits in rural (or non-rural) markets in each year and track how this indicator changes over time. SOD data for the year 2000, shows at least one out-of-State holding company had an office in 685 of the 1,339 rural markets at that time. The average aggregate deposit market share of these companies was 18.1 percent and the median market share was just 2.5 percent. In 2007, this type of institution had at least one office in 734 of the 1,334 rural markets. The average deposit share was slightly higher at 18.7 percent and the median share had risen to 6.9 percent. Using the most recent 2014 report, out of State holding companies had offices in 715 rural markets (out of 1,313 total), and both their average (17.7 percent) and median (5.4 percent) deposit share were lower in 2014 than they were in 2007. This finding is consistent with recent trends in office closures and sales by larger banking organizations outside the urban markets where most of their offices are concentrated. So this evidence supports the conclusion that community banks are still able to compete effectively against larger, nonlocal competitors in rural markets.

Q.4. *Community Institution Viability*—What do you consider to be the biggest threat to small institutions livelihood and what are you doing to address those risks?

A.4. Strategic risk remains the top risk for midsize and community banks. Banks continue to face difficult choices to meet earnings targets and keep pace with competition. We have communicated to OCC examiners the need to assess banks' strategic decision making and execution processes to determine if plans are well researched, realistic, and supported by appropriate expertise and risk management infrastructures. We have also discussed this strategic risk in our semi-annual risk perspective report that is publicly available to banks. We communicated that banks' boards of directors and senior managers should ensure that strategic planning and product approval processes appropriately consider expertise, management information systems, and risk controls for the banks' business lines and activities. Banks also should incorporate management succession and retention of key personnel into their strategic planning process. Compliance programs should keep pace with the volume and complexity of regulatory changes, as well as the changing nature of bank customers and transactions.

Q.5. *Growth and Regulatory Paperwork Reduction Act Review*—Can you elaborate on how your review is going and share with us the major areas of consensus the agencies and the industry have found so far?

A.5. We believe the EGRPRA review process is providing us with helpful information about our regulations. The outreach meetings have offered the agencies an opportunity to hear directly about how our regulations affect community banks. As part of these efforts, community banks have told us that they are finding it difficult to compete in this regulatory environment and that regulations should be tailored to fit the size and complexity of the institution. To the extent that we have significant flexibility to amend existing regulations, and draft new ones, in ways to reduce the regulatory burdens on community institutions without compromising the safety and soundness of these institutions, we will do so.

With respect to specific issues, many community banks have told us that our Call Reports should be simplified and revised to reduce duplicative reporting requirements. The OCC understands these concerns and, along with the other Federal banking agencies and under the auspices of the FFIEC, is undertaking a comprehensive review of all Call Report items and schedules. This project includes a review of every line item of every schedule in the Call Report to identify information that is essential for the agencies and must be collected.

Q.6. Can you share anything about your future plans as this review moves forward?

A.6. Through 2015, we plan to issue additional *Federal Register* notices requesting public comments on our remaining regulations. We also will hold three additional outreach meetings where financial institutions and consumer and community groups can provide their comments directly to agency principals and senior agency staff. Our next outreach meetings are scheduled for Kansas City on August 4, Chicago on October 19, and Washington, DC, on December 2. We note that the agencies recently have expanded the scope of the EGRPRA review to include all of our regulations issued in final form up to the date that we publish our last EGRPRA notice for public comment. We will include these additional regulations in a future *Federal Register* notice requesting EGRPRA-related comments, and accept comments on these rules at our remaining outreach meetings.

As this EGRPRA process continues, we will review comments received to date to determine whether there are changes to our rules that we can propose prior to the end of the EGRPRA review process. We also will review these comments for additional legislative changes that we can provide to Congress prior to the statutorily mandated EGRPRA report, so that Congress can incorporate these proposals sooner rather than later. (We note that we already have indicated support for legislative proposals authorizing a small bank exception to the Volcker rule, raising the asset-size threshold for institutions to qualify for the 18-month small bank examination cycle, and simplifying the legal requirements for Federal savings associations to alter their business models.) Lastly, we continue to seek ways to calibrate our rulemakings (outside of the EGRPRA process) to account for differences in the size and complexity of institutions in order to minimize unnecessary regulatory burden on community banks.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

LEGISLATIVE PROPOSALS RECOMMENDED BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY SUBMITTED BY SENATOR TOOMEY

Office of the Comptroller of the Currency

Washington, DC 20219

December 5, 2014

The Honorable Patrick J. Toomey
Ranking Member
Subcommittee on Financial Institutions and Consumer Protection
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, DC 20510

Dear Ranking Member Toomey:

At the September 16, 2014, hearing entitled "Examining the State of Small Institutions," the federal banking agency witnesses were invited to provide recommendations on ways to reduce regulatory burden on financial institutions. The Office of the Comptroller of the Currency (OCC) shares the Committee's concerns regarding undue burden on small financial institutions.

The OCC is pleased to submit three legislative proposals for your consideration. A detailed description and explanation of each proposal is provided in the enclosures. The first proposal would exempt community banks with assets below $10 billion from the Volcker Rule. The second proposal would increase to $750 million the asset size threshold for community banks to qualify for an onsite examination every 18 months, rather than every year. The final proposal would provide federal savings associations with greater flexibility to compete in the marketplace.

We appreciate the opportunity to provide these recommendations to the Committee and we look forward to discussing them in further detail with your staff. If you have any questions, please do not hesitate to contact me or Carrie Moore, Director, Congressional Liaison at 202-649-6737.

Sincerely,

Thomas J. Curry
Comptroller of the Currency

Enclosures

Small Bank Exemption to the Volcker Rule

Section 13 of the Bank Holding Company Act of 1956 (12 U.S.C. 1851)

Section 13(h)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(1)) is amended—

(1) in subparagraph (D), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) by striking "institution that functions solely in a trust or fiduciary capacity, if—" and inserting the following: "institution—

"(A) that functions solely in a trust or fiduciary capacity, if—"; and

(4) by striking the period at the end and inserting the following: "; or

"(B) with total consolidated assets of $10,000,000,000 or less if such institution is not controlled by a company with total consolidated assets of more than $10,000,000,000.".

Explanation: This amendment to section 13 of the Bank Holding Company Act will exempt community banks from the requirements of the Volcker Rule. As drafted, this exemption applies to small banks ($10 billion or less in assets) that do not have a holding company, as well as small banks that are part of a small holding company ($10 billion or less in assets). Small banks that are part of a larger holding company are not eligible for the exemption to ensure that large banking organizations are not able to take advantage of this exclusion by moving activities covered by the Volcker Rule to a small bank controlled by the organization. Based on our review of banks that meet the asset size characteristics described above, we estimate that the amendment would exempt more than 6,000 banks from the requirement to comply with the regulations implementing the Volcker Rule.

The risks to the financial system of proprietary trading and owning or sponsoring private equity and hedge funds addressed by the Volcker Rule are far more significant when larger institutions engage in these activities than they are if community banks do so. However, the

Volcker Rule contains no exemption for community banks. Accordingly, community banks need to ascertain whether their activities are covered by the Volcker Rule in order to understand whether they have any compliance obligations. Making this determination may require them to expend money and resources – for example, by hiring attorneys and consultants. Exempting community banks from the Volcker Rule would relieve them of this regulatory burden and would allow the Federal Banking Agencies (FBAs) to more appropriately focus their examination resources where the supervisory concern is greatest. If a community bank engages in activities that would be covered by the Volcker Rule, the FBAs would be able to address any supervisory concerns raised by these activities as part of the normal safety-and-soundness supervisory process.

Suggested Amendment to Raise the Threshold for the 18-Month Examination Cycle for Certain Small Insured Depository Institutions

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended—

(1) in paragraph (4)(A) by striking "$500,000,000" and inserting "$750,000,000"; and
(2) in paragraph (10) by striking "$500,000,000" and inserting "$750,000,000".

EXPLANATION:

This provision amends the Federal Deposit Insurance Act (FDIA) to allow more small insured depository institutions to qualify for the 18-month on-site examination cycle.

Section 10(d) generally provides that the appropriate Federal banking agency (AFBA) must conduct a full-scope, on-site examination of each insured depository institution at least once during every 12-month period. However, paragraph (4) provides that an AFBA may examine certain insured depository institutions at least once during every 18-month period. The 18-month examination exception applies to an insured depository institution that was found, at its most recent examination, to be well managed and to have a composite condition of outstanding (composite rating of 1) or good (composite rating of 2). However, paragraph (4) provides different thresholds for 1- and 2-rated institutions.

To qualify for the 18-month examination cycle, a 1-rated institution must: (1) have total assets of less than $500 million; (2) be well capitalized (as defined for purposes of the prompt corrective action statute at 12 U.S.C. 1831o); (3) not be subject to a formal enforcement proceeding or order by its AFBA or the Federal Deposit Insurance Corporation; and (4) not have undergone a change in control during the previous 12-month period in which a full-scope, on-site examination otherwise would have been required.

Section 10(d)(4)(C)(ii) allows a 2-rated institution that has total assets of not more than $100 million, but otherwise meets the same conditions, to qualify for the 18-month examination cycle. However, section 10(d)(10) gives the AFBAs the discretion to raise the threshold for 2-rated institutions to $500 million if the AFBA determines that extending the 18-month examination cycle in this manner would be consistent with safety and soundness. The Federal banking agencies, by regulation, exercised this discretion in 2007 and extended the 18-month cycle to 2-rated institutions with assets of less than $500 million.[1]

This amendment revises section 10(d)(4) of the FDIA to raise from $500 million to $750 million, the total asset threshold below which a 1-rated insured depository institution may qualify for an 18-month (rather than a 12-month) on-site examination cycle. It also makes a conforming change to section 10(d)(10) giving the Federal banking agencies the discretion to raise this threshold for 2-rated institutions from $500 million to $750 million.

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[1] See 72 FR 54347 (September 25, 2007).

The amendment is consistent with the incremental approach that Congress has taken with respect to this provision when increasing the threshold amount of assets that would permit a small insured depository institution to qualify for the 18-month examination cycle.[2]

Currently, the amendment would affect 317 institutions. It will allow the Federal banking agencies to focus their supervisory resources on those institutions that may present capital, managerial, or other issues of supervisory concern, while simultaneously reducing the regulatory burden on small, well capitalized and well managed institutions. The Federal banking agencies will continue to use off-site monitoring tools to identify potential problems in smaller, well capitalized and well managed institutions that present low levels of risk. If warranted, a Federal banking agency may examine an institution more frequently than would be required under an 18-month examination cycle. The amendment does not affect a Federal banking agency's discretion in this regard.

[2] Congress originally enacted the exception allowing an 18-month examination cycle for small institutions as part of the Federal Deposit Insurance Corporation Improvement Act of 1991. Initially, this exception only was available to 1-rated institutions with total assets of less than $100 million. Pub. L. 102-242, § 111(a), 105 Stat. 2241 (1991). In section 306 of the Riegle Community Development and Regulatory Improvement Act of 1994, Congress increased the threshold for 1-rated institutions to total assets of less than $250 million, and expanded the 18-month examination rule to apply to 2-rated institutions with assets of less than $100 million. In the same statute, Congress gave each AFBA the discretion to raise this threshold to $175 million if the AFBA determines that extending the 18-month examination cycle in this manner would be consistent with safety and soundness. Pub. L. 103-325, § 306, 108 Stat. 2217 (1994). The threshold amount for 1-rated institutions was raised to assets of less than $500 million in section 605 of the Financial Services Regulatory Relief Act of 2006. Pub. L. 109-351, § 605, 120 Stat. 1980 (2006). The threshold amount allowing each AFBA to raise the statutory threshold for 2-rated institutions was increased to total assets of $250 million in 1996, Pub. L. 104-208, § 2221, 110 Stat. 3009 (1996), and to total assets of $500 million in 2007. Pub. L. 109-473, § 1, 120 Stat. 3561 (2007).

Summary of Proposed Legislation to Add Flexibility to the Federal Savings Association Charter

Background

The powers of federal savings associations (also known as "thrifts") are set out in the Home Owners' Loan Act (HOLA) (12 U.S.C. 1461 et seq.). HOLA establishes the lending and investment powers for federal savings associations, with the goal of encouraging them to provide housing credit safely and soundly. HOLA imposes limitations, such as percentage-of-asset limits on the amount of commercial and consumer loans that a federal savings association may hold. The statute also requires that a specified percentage of the assets of the association be in qualified thrift investments.

A number of federal savings associations seeking to engage in additional activities to serve their communities are unable to do so because they are constrained by the current limits in HOLA. Under existing law, a federal savings association must convert to a bank charter to implement a strategic decision to engage in commercial or consumer lending to a greater extent than is permitted by HOLA. However, particularly for smaller institutions, charter conversions can be time consuming and burdensome. Federal mutual savings associations face especially hard choices, since they must convert to the stock form of organization before they can convert their charter to a bank.

Not all jurisdictions require financial institutions to change charters in order to implement changes to business plans. In Massachusetts, for example, all state-chartered financial institutions, regardless of their charter type, are permitted to exercise the same basic set of powers. This model allows an institution to choose the appropriate corporate form and governance structure, without unnecessarily limiting the evolution of the institution's business plan.

The proposed legislation applies principles embodied by the Massachusetts model to the existing Federal framework while preserving the respective characteristics of the federal savings association and national bank charters. Providing federal savings associations with additional flexibility to adapt to changing economic conditions and business environments will enable them to better meet the needs of their communities. The proposed legislation provides this flexibility in a manner consistent with the safe and sound operation of these institutions.

Details

The proposal adds a new section to HOLA that would give federal savings associations the flexibility to exercise national bank powers without changing their charters. Because the OCC already supervises both charters, it has the experience and the expertise necessary to ensure that a federal savings association exercising this flexibility operates safely and soundly.

Election. The proposal would give federal savings associations a choice: they could continue to operate as traditional thrifts, or elect to be treated as "covered savings associations." Generally, covered savings associations would have the powers of national banks, and be subject to the same restrictions as national banks. To become a covered savings association, an association would file a streamlined election notice that would automatically take effect after 60 days unless the association was notified otherwise by the Comptroller of the Currency. An election would not be permanent. If a federal savings association's business plan changed after it became a covered savings association, it would be permitted to reverse its election and regain its traditional thrift status after an appropriate period of time, as determined by the Comptroller by rule.

Rights and duties. With a few exceptions (described below), the proposal would give covered savings associations the same rights and privileges as national banks, including the ability to exceed the commercial and consumer loan limits that currently apply to federal savings associations. Because national banks are not subject to the qualified thrift lender test under section 10(m) of HOLA, covered savings associations also would not be subject to the qualified thrift lender test. Covered savings associations would, however, be subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations as national banks, including limitations on real estate activities. In practice, this means that a federal savings association that chooses to become a covered savings association would gain national bank powers but would have to discontinue any activities not permissible for a national bank, subject to rules governing the treatment of non-conforming assets and subsidiaries.

Governance and corporate lifecycle. Under the proposal, covered savings associations would retain their federal savings association charters and corporate forms, whether stock or mutual. They would also continue to be treated like federal savings associations for purposes of consolidation, merger, dissolution, charter conversion, conversion from the mutual form to stock form, conservatorship, and receivership. This is consistent with the Massachusetts model, which allows financial institutions with a variety of governance structures to exercise the same set of powers.

Branches. Generally, the proposal provides that once a federal savings association becomes a covered savings association, it could only establish, acquire, and operate branches if a national bank were allowed to establish, acquire, or operate those same branches. However, the proposal includes grandfathering provisions that would allow a covered savings association to continue to operate the branches in operation when it made its election, even if a national bank were not allowed to operate those branches. This approach recognizes the value of existing branches to local communities while ensuring equal treatment of covered savings associations and national banks.

Rulemaking. The proposal would require the Comptroller of the Currency to issue rules to implement the amendment, including provisions for the transition to a covered savings association or the reversal of an election. By requiring notice and comment rulemaking, the proposal gives stakeholders an opportunity to provide feedback on the details of the election process and the treatment of covered savings associations.

Effective date. Under the proposal, federal savings associations would not be permitted to make elections until the final rules implementing the amendment took effect. This approach allows for a smooth and orderly initial election process.

Proposed Legislation to Add Flexibility to the Federal Savings Association Charter

SEC. ___. PROVIDING ADDITIONAL FLEXIBILITY FOR FEDERAL SAVINGS ASSOCIATIONS.

(a) AMENDMENT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 (12 U.S.C. 1464) the following:

"SEC. 5A. ELECTION TO OPERATE AS A COVERED SAVINGS ASSOCIATION.

(a) DEFINITION.—In this section, the term 'covered savings association' means a Federal savings association that makes an election approved under subsection (b)(3).

(b) ELECTION.—

(1) IN GENERAL.—A Federal savings association may elect to operate as a covered savings association in accordance with this section.

(2) NOTICE OF ELECTION.—A Federal savings association shall notify the Comptroller of an election under paragraph (1).

(3) APPROVAL.—An election by a Federal savings association under paragraph (1) shall be deemed to be approved on the date that is 60 days after the date on which the Comptroller receives the notice under paragraph (2), unless the Comptroller notifies the Federal savings association otherwise.

(c) RIGHTS AND DUTIES.—Notwithstanding any other provision of law, and except as otherwise provided in this section, a covered savings association shall have the same rights and privileges as a national bank that has its main office at the same location as the home office of the covered savings association and shall be subject to the same duties, restrictions, penalties (whether criminal or civil), liabilities, conditions, and limitations that would apply to a national bank that has its main office at the same location as the home office of the covered savings association.

(d) GOVERNANCE.—The provisions of law relating to the governance of Federal savings associations, including incorporation, bylaws, boards of directors, shareholders, and dividends, shall continue to apply to a covered savings association.

(e) CORPORATE LIFECYCLE.—For purposes of consolidation, merger, dissolution, conversion (including mutual to stock conversion and conversion to another charter), conservatorship, and receivership, a covered savings association shall continue to be treated as a Federal savings association.

(f) FEDERAL RESERVE MEMBERSHIP.—A covered savings association may not be admitted to membership in a Federal reserve bank.

(g) SUBSIDIARIES.—

(1) ACTIVITIES.—Except as may be provided by the Comptroller in regulations issued under subsection (i)(2)(C), a subsidiary of a covered savings association may not engage in any activity that would not be permissible for a subsidiary of a national bank.

(2) NEW SUBSIDIARIES.—On and after the date on which an election is approved under subsection (b), a covered savings association may establish a subsidiary that would be permissible for a national bank to establish.

(h) BRANCHES.—

(1) EXISTING BRANCHES.—A covered savings association may continue to operate any branch or agency the covered savings association operated on the date on which the election under subsection (b) is approved.

(2) NEW BRANCHES.—On and after the date on which an election under subsection (b) is approved, a covered savings association may establish, acquire, and operate an additional branch at any location in which a national bank would be permitted to establish, acquire, and operate a branch.

(i) RULEMAKING.—

(1) IN GENERAL.—The Comptroller shall issue regulations to carry out this section.

(2) CONTENTS.—The regulations issued by the Comptroller under this subsection shall—

(A) provide that covered savings associations are not subject to section 5(c) or 10(m) of this Act;

(B) establish streamlined standards and procedures for the election under subsection (b);

(C) provide for the treatment of non-conforming assets and subsidiaries after an election under subsection (b);

(D) establish standards and procedures to allow a covered savings association to terminate an election under subsection (b) after an appropriate period of time and in a manner that prevents evasions of the requirements of this Act; and

(E) include any other provision that the Comptroller determines is necessary, consistent with applicable safety and soundness standards—

(i) to allow covered savings associations to operate without the restrictions otherwise applicable to Federal savings associations;

(ii) to clarify the provisions of law that apply to covered savings associations; or

(iii) to carry out this section."

(b) EFFECTIVE DATE OF ELECTION.—A Federal savings association may not make an election under section 5A(b)(1) of the Home Owners' Loan Act, as added by this section, before the date on which final regulations issued by the Comptroller of the Currency under subsection (i) of such section 5A first take effect.

RESPONSE FROM TONEY BLAND SUBMITTED BY CHAIRMAN SHELBY

Office of the Comptroller of the Currency
Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation

February 13, 2015

Honorable Richard C. Shelby
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Dear Senator Shelby:

You have asked about the decision to exclude rules issued pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act from the scope of the regulatory review required by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). The Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Board of the Federal Deposit Insurance Corporation, (collectively, the agencies) approved a joint notice describing the EGRPRA review and seeking public comment that appeared in the Federal Register on June 4, 2014. This joint notice explained that the agencies were not including in the EGRPRA review "rules that will go into effect during the EGRPRA review, new regulations that have only recently gone into effect, or rules that we have yet to fully implement." This decision and notification was approved by the Comptroller, the Members of the FDIC Board and the Members of the Board of Governors of the Federal Reserve.

Consistent with the Administrative Procedure Act and the Paperwork Reduction Act, the agencies previously invited the public to comment on these rules, including to provide comment on the burden associated with these rules, when they were originally proposed. New or revised burden information associated with these rules is unlikely to be available from the institutions subject to the rules until they have operated under them for long enough to evaluate the effects.

The agencies' decision to exclude certain rules from the EGRPRA review is consistent with a similar decision in connection with the first EGRPRA review (2003-2006). During that review, the agencies did not seek comment on the Community Reinvestment Act rules or Fair and Accurate Credit Transactions Act of 2003 rules because these rules had recently been part of separate rulemakings. However, regardless of whether a rule is specifically included in the EGRPRA review, the agencies will consider all comments they receive on any of their rules. The agencies will take action as appropriate on suggested changes or provide recommendations to Congress if statutory changes are required.

Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

Toney Bland
Senior Deputy Comptroller for Midsize and
Community Bank Supervision
Office of the Comptroller of the Currency

Maryann F. Hunter
Deputy Director, Division of Banking
Supervision and Regulation
Board of Governors of the
Federal Reserve System

Doreen R. Eberley
Director, Division of Risk Management Supervision
Federal Deposit Insurance Corporation