

**FINANCIAL INDUSTRY REGULATION:
THE OFFICE OF THE
COMPTROLLER OF THE CURRENCY**

HEARING
BEFORE THE
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

JUNE 13, 2018

Printed for the use of the Committee on Financial Services

Serial No. 115-99



U.S. GOVERNMENT PUBLISHING OFFICE
WASHINGTON : 2018

31-475 PDF

HOUSE COMMITTEE ON FINANCIAL SERVICES

JEB HENSARLING, Texas, *Chairman*

PATRICK T. MCHENRY, North Carolina,
Vice Chairman

PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
STEVAN PEARCE, New Mexico
BILL POSEY, Florida
BLAINE LUETKEMEYER, Missouri
BILL HUIZENGA, Michigan
SEAN P. DUFFY, Wisconsin
STEVE STIVERS, Ohio
RANDY HULTGREN, Illinois
DENNIS A. ROSS, Florida
ROBERT PITTENGER, North Carolina
ANN WAGNER, Missouri
ANDY BARR, Kentucky
KEITH J. ROTHFUS, Pennsylvania
LUKE MESSER, Indiana
SCOTT TIPTON, Colorado
ROGER WILLIAMS, Texas
BRUCE POLIQUIN, Maine
MIA LOVE, Utah
FRENCH HILL, Arkansas
TOM EMMER, Minnesota
LEE M. ZELDIN, New York
DAVID A. TROTT, Michigan
BARRY LOUDERMILK, Georgia
ALEXANDER X. MOONEY, West Virginia
THOMAS MACARTHUR, New Jersey
WARREN DAVIDSON, Ohio
TED BUDD, North Carolina
DAVID KUSTOFF, Tennessee
CLAUDIA TENNEY, New York
TREY HOLLINGSWORTH, Indiana

MAXINE WATERS, California, *Ranking
Member*

CAROLYN B. MALONEY, New York
NYDIA M. VELÁZQUEZ, New York
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
MICHAEL E. CAPUANO, Massachusetts
WM. LACY CLAY, Missouri
STEPHEN F. LYNCH, Massachusetts
DAVID SCOTT, Georgia
AL GREEN, Texas
EMANUEL CLEAVER, Missouri
GWEN MOORE, Wisconsin
KEITH ELLISON, Minnesota
ED PERLMUTTER, Colorado
JAMES A. HIMES, Connecticut
BILL FOSTER, Illinois
DANIEL T. KILDEE, Michigan
JOHN K. DELANEY, Maryland
KYRSTEN SINEMA, Arizona
JOYCE BEATTY, Ohio
DENNY HECK, Washington
JUAN VARGAS, California
JOSH GOTTHEIMER, New Jersey
VICENTE GONZALEZ, Texas
CHARLIE CRIST, Florida
RUBEN KIHUEN, Nevada

SHANNON MCGAHN, *Staff Director*

CONTENTS

	Page
Hearing held on:	
June 13, 2018	1
Appendix:	
June 13, 2018	53

WITNESSES

WEDNESDAY, JUNE 13, 2018

Otting, Hon. Joseph, Comptroller, Office of the Comptroller of the Currency ...	4
---	---

APPENDIX

Prepared statements:	
Otting, Hon. Joseph	54

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Otting, Hon. Joseph:	
Written responses to questions for the record submitted by Representative Beatty	81
Written responses to questions for the record submitted by Representative Hultgren	85
Written responses to questions for the record submitted by Representative McHenry	88

**FINANCIAL INDUSTRY REGULATION:
THE OFFICE OF THE
COMPTROLLER OF THE CURRENCY**

Wednesday, June 13, 2018

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Jeb Hensarling [chairman of the committee] presiding.

Present: Representatives Hensarling, Royce, Lucas, Posey, Luetkemeyer, Huizenga, Duffy, Stivers, Hultgren, Ross, Pittenger, Wagner, Barr, Rothfus, Tipton, Williams, Poliquin, Love, Hill, Emmer, Zeldin, Trott, Loudermilk, Davidson, Budd, Kustoff, Tenney, Waters, Maloney, Velazquez, Sherman, Meeks, Capuano, Lynch, Scott, Green, Cleaver, Perlmutter, Foster, Kildee, Delaney, Sinema, Vargas, Gottheimer, Gonzalez, Crist, and Kihuen.

Chairman HENSARLING. The committee will come to order.

Without objection, the Chair is authorized to declare a recess of the committee at any time. And all members will have 5 legislative days within which to submit extraneous materials to the Chair for inclusion in the record.

The hearing today is entitled, "Financial Industry Regulation: The Office of the Comptroller of the Currency." I now recognize myself for 3-1/2 minutes to give an opening statement.

So today, we will welcome Joseph Otting, the 31st Comptroller of the Currency, who took his office approximately 7 months ago. We will welcome him for our first appearance before the committee.

What a difference 17 months make in the life of the Nation, and what a difference public policy makes. Working together with the Administration, this Congress has made a huge difference and perhaps produced the most booming economy in many people's lives.

Unemployment now is recorded at the lowest in a generation, tied for the lowest in almost a half a century. Also, African-American unemployment is the lowest on record, the lowest on record, and the gap has narrowed. Last month, there were actually more job openings than there were unemployed. The first time since recordkeeping began in the year 2000 that that has occurred. After years and years and years of press reports that unemployed people are seeking factories, we now have press reports that factories are struggling to find workers instead.

We have reports of robust wage growth as well, the best wage growth in 11 years. And in the last wage report, 49 of 50 States had positive wage growth.

The National Federation of Independent Businesses said the highest number of businesses are increasing worker pay that they have ever recorded in their survey. The University of Michigan reports that consumer confidence is at the highest level in 14 years. And even, even The New York Times has had to admit, quote, "The economy is humming."

Again, this did not happen by accident. It is a result of the Tax Cuts and Jobs Act and the effort, particularly of the Administration and our banking regulators, to right-size regulation, to properly calibrate regulation, to ensure that it is working for working people, because all regulation, regardless of its intent, regardless of its purpose, can ultimately have a cost on access and cost, cost to credit of hardworking Americans.

And so it is an incredible achievement that once again we are seeing average 3 percent economic growth. And that is so important because when one looks at the data, one sees that in American history the greatest employment, probably almost 80 percent of job gains, of income gains, of poverty reduction take place in 3 percent growth years. And so how wonderful it is to have regulators who are committed to growth in our economy.

And so, again, the greatest boost to our economy is not a government economic stimulus plan, it is not quantitative easing, but it is business confidence that comes from good public policy and smart regulatory efforts.

So I look forward to hearing from our witness. I know that he has been quite active on a number of fronts, including fintech charters and Volcker and BSA (Bank Secrecy Act) and AML (Anti-Money Laundering). I look forward to getting into all of that and seeing what is it we can do to make sure that 3 percent economic growth continues for all working Americans.

The Chair now recognizes the Ranking Member of the committee, the gentlelady from California, for 5 minutes for an opening statement.

Ms. WATERS. Thank you, Mr. Chairman.

I am looking forward to hearing Comptroller Otting's testimony and asking him about his activities at and plans for the Office of the Comptroller of the Currency (OCC).

Mr. Chairman, I believe that Congress has a responsibility to ensure that our economy and laws work fairly for everyone. And yet at a time when banks are posting record profits, the Trump Administration and its allies in Congress have taken banking regulation in this country in the wrong direction.

Last month, congressional Republicans pushed through S. 2155. The legislation was championed and signed into law by Donald Trump, who made an early promise to, quote, "do a big number," unquote, on Dodd-Frank.

S. 2155 rolled back protections Democrats put in place following the 2008 financial crisis to strengthen oversight of Wall Street and ensure that risky activities do not bring down the economy again.

Since taking office, the Trump Administration has consistently taken actions that hurt Main Street and benefit Wall Street. Mick

Mulvaney, who was illegally installed, is Acting Director of the Consumer Financial Protection Bureau (CFPB) by Trump, is hard at work weakening the agency from the inside. His latest act of anticonsumer aggression was to fire all 25 members of the Consumer Bureau's Consumer Advisory Board and then to insult them on their way out the door.

It is in this context that we have Comptroller Otting here before us today, testifying here for the first time. The American public has the right to know if he plans to follow in the deregulatory and anticonsumer footsteps of this Administration.

I am particularly interested in hearing his perspectives on the direction in which he will guide the OCC on three important issues: The Community Reinvestment Act; the opening of fraudulent accounts by our Nation's banks; and the regulation of the fintech industry.

It has been widely reported that the Federal banking agencies, including the OCC, plan to update their implementation of the Community Reinvestment Act, that is CRA. I agree that the CRA could benefit from modernization to reflect the changing bank landscape which now includes online banking, which is not solely based on brick and mortar bank branches, but any modernization process must not be focused on making CRA exams easier for banks. Ninety-nine percent of banks already receive a passing grade from regulators on their exams. Rather, any update to the implementation of the law must be focused on ensuring that banks are responsibly meeting the credit needs of their communities.

A recent report by Reveal news found modern day redlining, the discriminatory practice where minority communities are denied mortgage loans and have less access to credit across 61 metropolitan areas in our country. That is unacceptable.

So it is absolutely critical that the CRA, which was designed to combat redlining, is not weakened to let banks off the hook from their obligations.

I am also very concerned regarding reports that the OCC has found that more banks open accounts without the consent of their customers in a review conducted following Wells Fargo's egregious fraudulent account scandal. I am looking forward to hearing from Comptroller Otting today on the details of the OCC's findings on this subject and their plans to prevent such practices moving forward.

I would also like to hear the Comptroller's views on fintech and the way their technology is rapidly changing the banking landscape, and how the OCC is responding as Americans are banking and accessing credit in new ways in this market. It is important that we encourage responsible innovation and, also, that we ensure that fintech companies are providing credit fairly to all communities.

I yield back the balance of my time.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, Chair of our Financial Institutions Subcommittee for 1-1/2 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Comptroller Otting, thank you very much for joining us today. And I certainly can't tell you how great it is to have somebody that actually has banking experience running the OCC. Welcome.

As a former banker and bank examiner, I felt incredible frustration over the last 8 years. We experienced failed economic policies that led to the slowest recovery in the modern era and a regulatory pendulum that swung too far after the financial crisis. Our financial system needs stability. It needs rigorous supervision, but it also needs certainty. Institutions need clear rules of the road.

Despite a recent financial renaissance and changes at the most senior levels of government, I remain concerned that there are legacy supervisory issues that need to be addressed. That is particularly true when we look at the troubling trend of de-risking, which is still an issue I hear about on a near weekly basis. I urge you to take steps to ensure that the decisions you make are clearly communicated to the field, and that OCC examiners use their positions to promote safety and soundness in our financial system and not to advance any sort of political agenda. With your leadership and experience, I am confident that we will be witness to a more effective and responsible supervisory regime, one that upholds rule of law rather than thumbing its nose at it.

My colleagues and I thank you for being here today and for taking on this responsibility. Look forward to your testimony.

With that, Mr. Chairman, I yield back the balance of my time.

Chairman HENSARLING. The gentleman yields back.

Today we welcome the testimony of the Honorable Joseph M. Otting, Comptroller of the Currency. Again, this is the first time that Mr. Otting has appeared before this committee as he was sworn in, again, as the 31st Comptroller of the Currency on November 27 of last year. Mr. Otting holds a bachelor of arts in management from the University of Northern Iowa and is a graduate from the School of Credit and Financial Management, which was held at Dartmouth College in New Hampshire.

Mr. Otting brings to the job a wealth of banking experience. Prior to becoming Comptroller, Mr. Otting was, again, a long-time executive in the banking industry. He served as president of CIT Bank and copresident of CIT Group from August 2015 to December 2015. He also was president, chief executive officer, and a member of the board of directors of OneWest Bank.

Without objection, the witness' written statement will be made part of the record.

Mr. Otting, you are now recognized for 5 minutes to give an oral presentation of your testimony. And again, welcome to the committee.

STATEMENT OF JOSEPH OTTING

Mr. OTTING. Thank you very much.

Good morning, everybody. Chairman Hensarling, Ranking Member Waters, and members of the committee, thank you for the opportunity to share my priorities as Comptroller of the Currency and my views on reducing unnecessarily regulatory burden and promoting economic growth.

The Office of the Comptroller of the Currency's mission is to ensure our Federal banking system operates in a safe and sound

manner, provides fair access, treats their customers fairly, and complies with applicable laws and regulations. We accomplish that mission and rationalize our regulatory framework so that the system creates more jobs and economic opportunity.

My written testimony details the conditions of the Federal banking system, risks facing that system, and my priorities. These priorities include modernizing the Community Reinvestment Act to increase lending, investment, and financial education to where it is needed most. And encouraging banks to meet short-term, small-dollar credit needs to provide consumers with additional safe, affordable credit choices.

My priorities also include enhancing the Bank Secrecy Act, and any anti-money laundering compliance so that banks can provide a more effective means to support law enforcement and comply with statutory and regulatory requirements more efficiently. I also support simplifying regulatory capital requirements, recalibrating the Volcker Rule, and ensuring that agencies operate effectively and officially.

Today, I also want to discuss the importance and quality of the work accomplished at the OCC. Since becoming Comptroller, I have been struck by the professionalism and caliber of the agency staff. The agency's 4,000 employees serve our Nation by performing the important task of supervising more than 1,300 national banks, Federal savings associations, and Federal branches of foreign banks. While the vast majority of institutions we oversee are small community banks, the system also includes the largest, most globally active banks in our country. Successful supervision requires a corps of professionals supported by lawyers, economists, information technology specialists, policy experts, and many others.

Few Americans know the OCC, but the majority of them have a relationship with at least one of the banks we supervise. It is not an overstatement to say our Nation's banking system is the most respected in the world due, in large part, to the quality of the supervision the OCC provides.

The OCC is unique among Federal banking regulators. It is the sole regulator exclusively dedicated to prudential supervision. Undistracted by multiple mandates, we have a laser focus on bank safety, soundness, and compliance. The agency takes a risk-based approach to supervision, tailoring its oversight to the risk and business models of each individual bank. At the same time, its broad national perspective provides value in identifying the risks and concerns that may face similar banks or the broader system. Our risk-based approach allows us to adapt the economic opportunity and continue core safeguards necessary to protect the safety and soundness of our financial system and prevent consumer abuse.

I am fully committed to implementing the changes in the law as quickly as possible. I will work with my fellow regulators on a collaborative interagency basis where appropriate. Where existing rules may conflict with the Economic Growth Act, where the statute provides transition periods or where the law requires agency rulemaking for implementation, the OCC plans to supervise institutions consistent with the intent of the law, including with respect to amendments to these stress testing requirements and will not enforce requirements on banks that the bill intends to eliminate.

As a bank executive, I relied heavily on the judgment, expertise, and counsel of the OCC examiners. They helped me identify issues and address them effectively before the concerns turned into serious problems. I felt the OCC examiners understood what we as bankers were trying to achieve, and we worked to meet the financial needs of our customers. I slept better knowing that the OCC supervised my bank, and you can sleep better knowing that the men and women of the OCC are on the job overseeing the national banking system.

In closing, I want to congratulate you, Chairman Hensarling, on your leadership of this committee. And thank you again for allowing me to share my perspective as Comptroller. I look forward to answering your questions.

[The prepared statement of Mr. Otting can be found on page 54 of the Appendix.]

Chairman HENSARLING. Thank you.

The Chair now yields himself 5 minutes for questions.

So, Mr. Otting, we all know, prior to your tenure, Wells Fargo ripped off far too many people for far too long a period of time. The OCC launched a horizontal review of all retail banks' sales practices after the Wells Fargo scandal. And by the way, I hope and believe the new Wells Fargo management is still in the process of cleaning up prior messes.

But the question has occurred, what has happened on this horizontal review? How extensive was it? There hasn't been a public report. Some press reports. So my question is, how extensive has the review been? How long did it take? How many banks were examined? And what are the takeaways from that? And what can be presented to the public? And what is still part of a confidential supervisory matter? If you would please comment on this.

Mr. OTTING. Thank you very much for the question. In 2016, the OCC launched a horizontal review. We concluded that examination in the fourth quarter of 2017. More than 40 national banks were involved in the lookback. We looked at the new account opening activities in the following areas: Mortgages, auto, credit card, checking, savings, and money market.

This lookback was a 3-year period that included hundreds of millions of new accounts each year, which, on a 3-year basis, probably was somewhere between 500 and 600 million accounts. We concluded that, as I said, in the fourth quarter.

On June 4, we sent letters to the banks' CEOs wrapping up the horizontal review. On June 11, we sent letters to the Chairman and Ranking Members of the House and Senate Banking Committees to provide you an overview. I am here to report today that we did not find pervasive or systemic issues in regards to improper account openings. We did find the needs for banks to improve their policies, procedures, and controls.

With this, we issued 252 matters requiring attention (MRAs). And 20 percent of those have been closed, with the remaining being under supervisory review.

Through this entire process, we found less than 20,000 accounts, out of the hundreds and hundreds of activities of opening of new accounts, with less than half of that 20,000 being due to unauthorized account openings.

So we feel that this report is conclusive. We feel there are ways for banks to improve their policies, procedures, and controls. But at no point in time did we find pervasive or systemic items associated with this review.

Chairman HENSARLING. So, Mr. Otting, how long did the review take?

Mr. OTTING. The review took, roughly, 18 months.

Chairman HENSARLING. It took 18 months. And how many personnel were involved? How would we look upon—how extensive was this review?

Mr. OTTING. I couldn't give you the exact number in the agency, but it was the number one issue over the last 18 months that we took most of our examination staff to focus on.

Chairman HENSARLING. And did I understand you to say that there are roughly 500 to 600 million bank accounts within the Federal banking system?

Mr. OTTING. No. Those are the accounts that have been opened over the last 3 years.

Chairman HENSARLING. Just opened over the last 3 years?

Mr. OTTING. That is correct.

Chairman HENSARLING. And you—out of that universe, this horizontal review found roughly 20,000 questionable?

Mr. OTTING. We found 20,000 accounts that we felt half of those were due to unauthorized account openings. The point that I would make here is that, as we have gone in, we didn't find good, documented policies and procedures associated with the account openings. And so the core takeaway from this is that banks are working on these issues through the MRAs. And matters requiring attention are very consistent in the industry when we go in and examine and if they are not up to a certain standard, then we will issue an MRA. And the key takeaway here is that we are asking banks to improve their policies, procedures, and controls around account openings.

Chairman HENSARLING. Thank you, Mr. Comptroller. As you well know, on May 24, right before Memorial Day, the President signed into law the Economic Growth, Regulatory Relief, and Consumer Protection Act, which was a bipartisan bill in both the House and the Senate, largely viewed as the most pro-growth banking bill in a generation since Gramm-Leach-Bliley. But it does direct the OCC and other Federal regulators to change its rules undertake rulemakings.

Can you outline the schedule to implement this law?

Mr. OTTING. Yes. We have quickly assembled resources within the OCC, and we are looking at the legislation from three particular ways. One is what can we quickly implement. The second bucket is what requires a rule for us to write. And the third is what will require coordination amongst the Federal agencies.

And so I would tell you that we are actively on it right now trying to create critical paths to accomplishment, but it is receiving the highest priority in the agency.

Chairman HENSARLING. That is what I like to hear, Mr. Comptroller. Otherwise, my time has expired.

The Chair now recognizes the gentlelady from New York, Mrs. Maloney, Ranking Member of our Capital Market Subcommittee for 5 minutes.

Mrs. MALONEY. Thank you, Mr. Chairman.

Comptroller Otting, I would like to ask you about the horizontal review of banks' sales practices that you conducted in the wake of the Wells Fargo fake accounts scandal. You said in your letter that you sent on Monday that this review included more than 40 banks. And you said that the review identified a staggering 250 deficiencies that required the OCC to issue matters requiring attention to the banks on review. That is an average of over six matters requiring attention per bank.

So my question is, did you find problems at every one of the banks included in the review?

Mr. OTTING. Ma'am, what I would say to you is, first of all, I don't view it as staggering, using that word.

Mrs. MALONEY. Just answer my question, please. My time is very limited.

Mr. OTTING. I know 250 out of 4,000 MRAs that are currently active in the industry. When we observed—

Mrs. MALONEY. Did you find something in every single bank?

Mr. OTTING. I don't have the details of that in front of me.

Mrs. MALONEY. OK. How many of those 40 banks had problems that you identified?

Mr. OTTING. When we issue an MRA, it is an item that we ask people to take specific action, and we give that to them in writing.

Mrs. MALONEY. OK. So let me follow up on that. If you found over 250 problems at just 40 banks in your review, doesn't that suggest that you should expand the review to all banks supervised by the OCC now that you have identified such widespread problems?

Mr. OTTING. You continue to use the word "problem." And I would say that we—

Mrs. MALONEY. I would say opening up—I would say opening up bank accounts is a problem. I would say that is a big problem to consumers.

Mr. OTTING. But you are correlating the MRA with opening accounts and I think that is a false way to look at it.

Mrs. MALONEY. Well, your letter indicated that you did in fact find individual banks that had opened accounts for customers without their consent. That is what Wells Fargo did. They opened fake accounts for their customers.

So let me ask you, have you taken any public enforcement actions as a result of your review of sales practices?

Mr. OTTING. We have not taken a public—these are confidential supervisory activities that we have in place that we will track adherence with the MRA activities.

Mrs. MALONEY. So let me get this straight. Your examiners found evidence that there were banks that had opened accounts for customers without their consent, and you decided not to take any public enforcement actions against them, instead gave them a warning. I have to say I find that deeply disturbing, especially in light of the Wells Fargo scandal, but let's move on.

You said that your agency's going to make a decision soon about whether to allow financial technology firms to obtain a special national charter. As you know, the so-called fintech charter that your predecessor proposed would have allowed fintech companies to operate with a national charter, without being subject to the same regulations and supervisory regime that banks are subjected to. And this was concerning to many of us on this committee. I was also very concerned about preempting all the State laws for fintech companies which the OCC's proposal would do.

If your agency moves forward with a fintech charter, will fintech companies be subjected to the same supervision and regulation of banks?

Mr. OTTING. They would be subject to the same supervision of national banks.

Mrs. MALONEY. But not Federal banks. It would be—it would have the same supervision.

Mr. OTTING. That is correct.

Mrs. MALONEY. All right. Thank you.

I yield back.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, Chairman of our Financial Institutions Subcommittee.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Mr. Otting, I read both your testimony and the OCC bulletin on short-term, small-dollar installment loans. Quite frankly, I am left a little bit puzzled over some of the language you used, specifically by your mention of applicability of State laws. I read this to infer that the OCC is retreating from strong preemption, which would be a major shift in policy.

Can you please clarify your position and the position of your agency?

Mr. OTTING. Yes. We are not retreating from preemption. It wasn't intended to confer that we would require national banks to adhere to the interest rates of each individual State, but the interest rate to which they are headquartered.

Mr. LUETKEMEYER. OK. So you are basically saying that you still have preemption, but you're saying that there are, in certain instances, State laws that are applicable that would still be there?

Mr. OTTING. Well, no, the State laws are applicable to interest rates based upon where the banks are headquartered. So that is the concept. And if we misinterpreted that in either our bulletin or letter, we would happily provide clarification to that.

Mr. LUETKEMEYER. OK. I was certainly concerned about the way I read that, but I appreciate your clarification.

OK. With regards to another issue, I sent to you this morning a letter that outlined my concerns over guidance being treated by examiners as treating binding obligations on financial institutions. Essentially, examiners are treating guidance as rule without subjecting anything to the process outlined in the congressional review process.

Are you willing to communicate your—to your exam force that, in the words of Federal Reserve Chairman J. Powell and Vice

Chairman Randy Quarles, rules are rules and guidance is guidance?

Mr. OTTING. Not only would I be willing to do that, I have done that since I have been at the agency. We have issued memos within the agency to make sure that all examiners are aware of that. And so I am fully supportive. The agency issues Q&A and guidance from time to time internally, and our people clearly recognize that, as you said, rules are rules and guidance is guidance.

Mr. LUETKEMEYER. One of the concerns is, as you well know, especially happened at the CPB during Director Cordray's reign, that we would have guidance and then enforce that and wound up being your rule of law out of that. And so I think it is important that if you can do this when you are trying to explain the guidance is guidance, also have in there something that would really clarify to the banks that this is guidance, and if you decide not to adhere to the guidance or to vary from that, there will be no punitive action taken, because I think that is a real concern of the financial industry from the standpoint of how things have been done in the past. So that would be a great clarification and an added addition to put with your guidance.

Mr. OTTING. Right. We will take that under advisement. I know you made that recommendation.

Mr. LUETKEMEYER. Thank you very much.

Also, Chairman Pearce and I have a piece of legislation that is getting ready to—that we have been working on here to modernize BSA/AML, and you have outlined in your testimony a need for some reforms. Can you elaborate on why you think modernization of BSA/AML is necessary?

Mr. OTTING. Yes, I would. First of all, I would say, everybody would not want bad money and bad people to take those items into the banking system, and so we have designed the system today with BSA/AML which is very labor intensive, very paper intensive. We produce 10 million pieces of paperwork in the national banks today, and I am not sure all that effort is really getting to our ability to catch those bad people. And so I think that we have made 14 recommendations to FinCEN (Financial Crimes Enforcement Network).

There is an interagency group of people trying to work to alleviate some of the overregulatory burden on banks. I know you have some in your bill that we are supportive of. And we think a collective effort can hopefully allow us to move to a spot where we can be better at detecting bad activity while lessening the burden to financial institutions.

Mr. LUETKEMEYER. Now, as I have talked to a lot of banks about this, what their CTRs (currency transaction reports) and SARs (suspicious activity reports), they are literally, literally giving millions and millions of documents to FinCEN. And it takes thousands, literally thousands of people to prepare those documents. And so if you think about it a little bit, it is going to take thousands of people to actually look at those documents. So it begs the question are they even looked at? Are they even reviewed?

So if they are spending all this money and all this time in having all these people do this, there has to be some sort of benefit from

it, and I really don't see that at this point. So this is one of the reasons we are working on this.

And also, beneficial ownership is a very controversial part of this. Can you explain a little bit, if you think that there is a—do you have a plan to change the definition or to give some sort of delay before implementing—it has been implemented.

Mr. OTTING. On beneficial ownership, I think it has its merits. I think the issue of having that data readily available is very problematic for the banking industry, and I think we are going to have to work through those issues.

Mr. LUETKEMEYER. Thank you.

I see my time is up. I yield back. Thank you, Mr. Chairman.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from New York, Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

Mr. Comptroller, I am somewhat favorable of fintechs. I think that they could be some good into—availability into communities of color, et cetera. And I am glad that the OCC recently came out with strong language against abusive charters' schemes there. The sole goal is to evade State law. And I share your views that bank fintech partnerships—as I said, there are benefits, but there still seems to be some legal uncertainty on the difference between legitimate partnerships and sham relationships.

So what I want to know is what is your opinion on the difference between the two? And will the OCC come out with guidance, specific guidance to clearly distinguish between true partnerships and rent-a-charter schemes? Because to me, if we don't—the bad can hurt the good and the potential that I think fintech has. So can you give us an indication of how you see it and what the OCC's role will be?

Mr. OTTING. Yes. Congressman Meeks, I appreciate your interest in this. I was in your office and we had a chance to discuss this. I think this is an important part of the evolution of banking in America today.

I would add a third equation to your point, which is how vendors are coming in and helping financial institutions to reach more customers. As a general rule, we have looked—when you say bad or sham or people ridding the charter, we generally looked at financial institutions, where they are actually using their underwriting and putting those loans on their books? We don't view someone who can channel or referral those opportunities to the bank as a sham, but we definitely hold the banks responsible as to evaluate those relationships, make sure customers are being treated fairly.

I think where most of the activity in the future will be into where they will use those people as vendors, where they have a great portal or a great way to reach customers and the bank has a desire to achieve those customers, and then we will hold those financial institutions to their vendor standards.

Mr. MEEKS. So will you come out with some clear guidance? That is what I think it needs. If the OCC would come out with some clear guidance that individuals can understand and see, and then we would be able to really determine shams from nonshams. So do you think you will come out with some actual language?

Mr. OTTING. We actually talked about this yesterday at the agency, there were 20-some people around the room. And it was an area we spent a lot of dialog. We would be happy to involve your staff. I think it is something that will be needed. And we would be happy to come out with some thoughts on what is a true vendor relationship, what is a true relationship. And we would welcome you and your staff's input on that.

Mr. MEEKS. I look forward to working with that, because I think that is absolutely key and essential. The potential is there, but it can easily be destroyed if it goes the wrong way, and I think guidance will help that.

You also talked about and I am interested in CRA and the role that fair lending should play in CRA examinations. And as you know, and I will try to do this real quickly, there are basically like three thoughts. One interpretation is that fair lending violations should always impact the CRA rating. Another one is that fair lending reviews are sometimes relevant to CRA examinations. And the third, of course, is that CRA examinations are completely separate and have no difference on each other.

I know where I am. Where are you?

Mr. OTTING. I am probably somewhere in the middle. As you know, CRA never included fair lending components. It is the bank serving the community—the entire community in which they operate, with a general emphasis today on low- to moderate-income communities. But I don't see how a bank personally who is not doing fair lending can't have some impact.

Mr. MEEKS. Because it is important to note that one of the founding reasons when CRA was enacted was because of redlining.

Mr. OTTING. Right.

Mr. MEEKS. And they unfair—cutting out districts and, therefore, it was not fair lending. So that, to me, should be very much a part of one CRA ratings. Because if there is discrimination going on, that is a problem. And CRA is supposed to be—help to be inclusive therein. Correct?

Mr. OTTING. Right.

Mr. MEEKS. So I would hope that we look at that very, very, very closely. Well, I don't think I have time for another question because there is somebody over there that is going to bang a gavel on me and you won't have time to answer.

So I yield back.

Chairman HENSARLING. The gentleman yields back his 3 seconds.

The Chair now recognizes the gentleman from Michigan, Mr. Huizenga, the Chairman of our Capital Market Subcommittee.

Mr. HUIZENGA. Thank you.

Comptroller, we appreciate you being here. I am going to move quickly because I have a number of things.

Just first and foremost, is increasing liquidity in the markets important?

Mr. OTTING. Absolutely.

Mr. HUIZENGA. And has the Volcker Rule, as it sits today, impaired that liquidity, especially in times of stress?

Mr. OTTING. I don't think we have been in a time of stress to be able to test that, to be honest with you.

Mr. HUIZENGA. But as you look forward to it, this concentration, is that a possibility there?

Mr. OTTING. It could have the potential.

Mr. HUIZENGA. OK. So to be clear, have important market-making functions being unacceptably chilling—or chilled by how the Volcker Rule has been both drafted and implemented?

Mr. OTTING. I don't believe so.

Mr. HUIZENGA. OK. Now, the OCC and other regulators tasked with the Volcker Rule implementation have proposed some changes, while still implementing section 619 of the Volcker Rule. I think you had used the word you support recalibrating the Volcker Rule. And I am curious, how do these reforms clarify or streamline or encourage more efficiencies in market places?

Mr. OTTING. So in our notice of proposed rulemaking, which I am sure you have seen, we had taken the under \$10 billion and fragmented between \$1 billion and less and made assumed compliance. In \$1 to \$10 billion, we said if there was \$25 billion or less, and over \$10 billion, we would go to accounting methodology for that. And what I meant by that is, is we can look at the accounting methodology to look at individual trades to see if there was proprietary trading, that brings great clarity both, I think, to the financial institutions and the examiners. Because of where we have been, we haven't been able to issue, I think, good examination guidelines on how to provide overview to proprietary trading.

Mr. HUIZENGA. OK. While we are on that, though, under the current regulatory framework, Volcker-affected entities might encounter Volcker-related examinations from multiple regulators such as yourself who have different legal supervision and enforcement regimes and who might not, frankly, traditionally regulate them. And this committee has heard instances of Volcker-affected entities receiving conflicting guidance from multiple regulators on this. And does a regulatory framework that results in industry participants not knowing which regulators to listen to in order to even comply? You are talking about bringing clarity, but we still have this alphabet soup of regulators that are out there at times giving conflicting direction, correct?

Mr. OTTING. I think that has been the case. And I think it was, I would say, a pretty remarkable task in a short period of time that we were able to bring the five agencies together and agree on a path forward. And I would hope in the future that would eliminate the situation that you are describing.

Mr. HUIZENGA. Well, I think it has to.

Mr. OTTING. I would agree.

Mr. HUIZENGA. Has that been a goal, is to harmonize?

Mr. OTTING. Yes.

Mr. HUIZENGA. How have you been doing that?

Mr. OTTING. Well, I think it starts with that we all agree now what the rules should look like. And we sent that out for comments, if we can implement that with the provisions of the Economic Act. I think that will create that harmonization.

Mr. HUIZENGA. OK. Would the regulatory framework be simpler if the primary regulator for Volcker-affected entities was charged with examining the entities' compliance with the Volcker Rule?

Mr. OTTING. It would, but I think the problem you have is really between the Fed and the OCC. We split evenly those activities. So I think if you said—

Mr. HUIZENG. Are you kindly saying it is a bit of a turf war?

Mr. OTTING. No, it is not a turf war at all.

Mr. HUIZENG. OK.

Mr. OTTING. It is like where those activities are within that financial institution. Some entities do it in the bank, some do it in the holding company, and so it is split evenly. So if you ask my recommendation, I would suggest that the Fed and the OCC, where most of that activity is domiciled, could partner to provide the rules or the feedback.

Mr. HUIZENG. So let me pursue this, because this is where the rubber hits the road. How are you working with the Fed then to do that?

Mr. OTTING. We have an excellent relationship. Randy Quarles has been an incredible partner since he has been put in that role.

Mr. HUIZENG. And you are meeting regularly?

Mr. OTTING. We meet every week, the FDIC (Federal Deposit Insurance Corporation), Randy Quarles, and myself are on a conference call, and once a month we meet for lunch. And any issues amongst the regulatory agencies are discussed. There is an open forum.

Mr. HUIZENG. Well, I want to encourage that. And anything that we can do to make sure that that happens. Because, frankly, this committee needs to look at what those next steps are to make sure that that harmonization is happening. And whether it is taken care of in-house with yourselves or whether we need to be involved in that, it will happen. So thank you.

I yield back.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the Ranking Member for 5 minutes.

Ms. WATERS. Thank you very much.

President Trump supported both the Volcker Rule and reimposing Glass-Steagall on the campaign trail, but the Administration has quickly backed away from those positions and is now pursuing Wall Street's agenda to roll back the Volcker Rule.

Do you support the Volcker Rule's prohibition on proprietary trading so that banks that benefit from the Federal safety net do not gamble with deposits? And additionally, why did the OCC join with our regulators to propose a major overhaul to basically undermine the Volcker Rule, making life easy for very profitable Wall Street banks and opening the door to risky trading practices?

Mr. OTTING. I do support the Volcker Rule. I don't think our actions open the door to risky trading. I think it brought clarity to what was defined in the ability to measure and monitor activities within the banks.

Ms. WATERS. When we debated a recent piece of legislation, I think there was some talk about the community banks and the fact that community banks were being penalized in some way because they had to, basically, follow the rules of the bigger banks as it relates to Volcker.

Do you have some discussion on that? Because my understanding, of course, is that the community banks were not involved

in the kind of trading that they would have to be concerned about the Volcker Rule.

Mr. OTTING. Yes. So in the notice for proposed rulemaking, we put out—before the economic act was approved, we assume compliance for all financial institutions \$1 billion or below, and between \$1 billion and \$10 billion we excluded those that had net earnings on trading of \$25 million or below. So it was our viewpoint, we agree with you, I am not aware of any small community bank that is active in proprietary trading.

Ms. WATERS. In addition to that, I would like to get your take on the fintech. I don't know, since I have been gone, whether or not some other people have talked about it. We have met with some of the leaders in the fintech community trying to understand exactly how they see going forward and what they understand about the expectations from OCC and Members of Congress. Have you been—gotten deeply involved with fintech and what your predecessor was attempting to do prior to leaving?

Mr. OTTING. I have been directly involved. We publicly said that in July we will make a decision about whether we will accept applications for fintech.

But if I could just take 10 seconds of your time, the world has changed dramatically over the last 2 years since Comptroller Curry went out. Fintechs used to think that they wanted to be banks, and now, most are realizing, because of the capital liquidity and commitment to the community they have to provide, they really don't want to be—most don't want to be banks anymore, but they want to be providers of services to banks. And so we see more and more coming in and talking to us about how they partner with banks to be able to provide portals and things where they can reach customers.

So while some will still want to be banks, more and more are moving toward saying, I want to be partner with banks and offer our services.

Ms. WATERS. So this participation with banks that you are alluding to, how would they see that working?

Mr. OTTING. Well, the fintechs have great portals or ways that they can approach certain communities. Generally, credit is a big driver of that, that they think they can help banks reach into communities, and then they will use that to funnel opportunities to the financial institutions. And generally, the fintechs didn't have the capital and liquidity to be able to do that.

And so what you are finding is a lot of small banks don't have that technology tool. And the analogy I would use, in the 1960's and 1970's, most banks used to do their own data processing and have their own computers, and now, they outsource that. And so the interior parts of banks are being done by large FIS (financial information servicers) and various others—I think you are going to see the next evolution is where banks will use various fintechs to help them approach the marketplace to get customers.

Ms. WATERS. Thank you very much. And I yield back the balance of my time.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Wisconsin, Mr. Duffy, Chairman of our Housing and Insurance Subcommittee.

Mr. DUFFY. Thank you, Mr. Chairman.

And, Mr. Otting, welcome to the Financial Services Committee. I am back here on the back row if you can't find me; only one, besides the Chairman, back here on our side.

I want to talk about small-dollar lending. I think this happens all across America, but especially in rural America, people come into hard times. And in times of need, if you don't have a relative to borrow money from or if they don't have a knee-breaking Vinny down the street, they are in tough shape. And I know you put out a bulletin encouraging banks to make responsible short-term, small-dollar loans that are amortized in equal payments. I commend you for that. And I know that you recognize this, but 63 percent of Americans don't have enough in their savings account to cover a \$500 emergency expense. So making sure that Americans have access in times of need is incredibly important.

There weren't a lot of specifics, though, on your bulletin. Do you anticipate that you are going to provide guidance in regard to the bulletin?

Mr. OTTING. We do not plan to issue guidance. It was our intention to signal to financial institutions that we are supportive of them entering that space. Most of them design products, and then we will, through our examination process, determine that what they are doing is fair and safe. So we have given the latitude of financial institutions to enter that space with indications that—

Mr. DUFFY. If it is not fair and safe, then what happens?

Mr. OTTING. Then we would examine that and make a determination if consumers are—

Mr. DUFFY. Doesn't it make sense to give them some guidance, though? Doesn't it make sense to offer guidance, instead of saying, listen, we want you to do it, but if you do it wrong, our jaws are going to clamp around you?

Mr. OTTING. Yes, I don't think that would be the case. What we want to do is for banks to be creative in that case and to look at ways to serve their community. And I am afraid personally if we issued some guidance, we may be too restrictive.

Mr. DUFFY. OK. Obviously, people are concerned about—we are concerned about individuals and families who have low credit scores, and when they access these small-dollar loans, their rates are high. But isn't there normally a correlation between risk and a rate of return?

Mr. OTTING. Yes, sir.

Mr. DUFFY. And are you going to be able to change what is happening in the current industry, whether it is current short-term lenders or the payday lenders, are we going to be able to change that if we go through credit unions and banks?

Mr. OTTING. First of all, just clarification, there are two product segments in here. There is the up to 45 days and there is a 46 days and above. But we were addressing the 46 days and above.

I personally feel that one of the reasons this was a big initiative of mine is that we forced banks out of that space in 2013. And for the life of me, on a supply and demand basis, if you take a big segment of supply out, what generally happened is that consumers got the wrong end of that deal. And by getting banks back in that space, I think they get fair, more economically efficient for them

pricing on loans and there is more supply. But more importantly is the banks have to use that as a stairstep if they perform well on those to report to the credit agencies that then they can get back into the mainstream of banking. And that is another one of my clear goals.

Mr. DUFFY. And I would agree with that goal. I think it is important.

I want to switch gears on you in my 1.5 minutes. I have received more questions recently about an idea that would transition our post offices into a new banking system. Some have complained that rural America doesn't have enough banks or credit unions. I share that concern, but the problem is we have so many rules and regulations, our small banks and credit unions can't survive, so they go out of business or they have to consolidate. And so the regulation and laws that have come from this town have caused a problem, and so we are now going to come up with a new solution which is post offices and banking? Good idea or bad idea?

Mr. OTTING. I think it is a creative idea if it increases the ability for consumers to have access to financial services. I am supportive of most activities that—

Mr. DUFFY. So the government should be involved in lending? We say, listen—

Mr. OTTING. No, I am not saying that. I said it is a creative idea.

Mr. DUFFY. But we are talking about government lending, Mr. Otting, right? We are talking about the Federal Government is going to step in and lend through our post offices. You like that idea?

Mr. OTTING. Generally not. But my viewpoint is, I think you have to increase the supply. If there is—

Mr. DUFFY. Is there not enough supply right now?

Mr. OTTING. There is not enough supply right now.

Mr. DUFFY. And so do you think political lending is a good thing?

Mr. OTTING. Do I think what lending is?

Mr. DUFFY. Political lending. That if we make decisions based on politics and whether it is in housing or in student loans or in just everyday lending, is that a good thing for the American economy and the American consumer?

Mr. OTTING. I think my own personal viewpoint is, is if we can educate people about financial services and that they can go to their phone and they can get a loan, or they can make a deposit, or they can open up a checking account, that is a better alternative.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Massachusetts, Mr. Capuano.

Mr. CAPUANO. Thank you, Mr. Chairman. And thank you, Mr. Otting, for being here.

Mr. Otting, I don't know you at all. I just want to ask you a few questions generally what you believe in.

Do you believe that homeownership is probably the most firm and sound and most used way for relatively poor or moderately poor working class people to move into the middle class? Do you believe that assessment?

Mr. OTTING. I do, but I wouldn't say all.

Mr. CAPUANO. Not all, but it is the best way. You are talking to one of them who did that. Every bit of middle class ability I have is because I bought a house 30 years ago and stayed there.

At the same time, do you believe that discrimination, either—never mind the legal obvious one, but even institutional discrimination, do you believe discrimination exists in America today?

Mr. OTTING. I have personally never observed it, but many of my friends from the inner cities across America will tell me that it is evident today.

Mr. CAPUANO. Do you believe that it exists?

Mr. OTTING. I believe it—like I said, I have never personally observed it. People have told me it exists, and so I trust those people when they tell me that.

Mr. CAPUANO. So you believe it exists? I understand you have never—and you are very lucky to have never experienced it.

Mr. OTTING. That is right.

Mr. CAPUANO. Do you believe that it exists?

Mr. OTTING. Here is what I would say: I believe the people who tell me that it exists.

Mr. CAPUANO. So discrimination in America exists today?

Mr. OTTING. Again, I stand by my answer.

Mr. CAPUANO. Well, that means you probably don't believe a lot of things, because you haven't personally experienced nuclear war either. So does nuclear war exist—I am not going to get into that. That is a ridiculous answer, but that is OK.

Do you believe that discrimination exists along racial, ethnic, gender, socioeconomic lines?

Mr. OTTING. I, again, have never observed that, but people who are close to me have said that they have experienced that.

Mr. CAPUANO. You have never experienced it. Have you ever read about it?

Mr. OTTING. Yes, I have read about it.

Mr. CAPUANO. Do you believe that the writers are stating a truth or just using it for political purposes?

Mr. OTTING. My experience with writers is they are right half the time.

Mr. CAPUANO. So there is no discrimination in America?

Mr. OTTING. No, I am not saying that.

Mr. CAPUANO. What are you saying?

Mr. OTTING. I am saying that I have personally never observed it.

Mr. CAPUANO. Geez, that is—I don't even know how to respond to that, if you want the truth. I think you finally got me.

Mr. OTTING. That wasn't my intent.

Mr. CAPUANO. Well, it was OK. Not too many people can get me. I just—certain things stun me.

Do you believe, in America today, that economic disparity exists?

Mr. OTTING. I do believe that.

Mr. CAPUANO. Do you believe it is expanding or do you believe it is not expanding? The difference between the wealthy and the poor.

Mr. OTTING. I believe that it is not expanding now with what we are seeing with employment and economic opportunities in America.

Mr. CAPUANO. You do not believe that the rich are getting richer and the poor are getting poorer?

Mr. OTTING. I think what I was saying is I believe that people on the lower economics end of the society are seeing more economic opportunities with jobs.

Mr. CAPUANO. That is not my question. I asked very simply, are the wealthy getting wealthier and the poor getting poorer?

Mr. OTTING. I don't have those statistics in front of me, so I can't answer that question.

Mr. CAPUANO. I really think you need to get out a little bit more, Mr. Otting. Again, you can disagree with it. I understand there are people that disagree with it. That is why I am trying to assess your beliefs. It is awfully hard to ask you questions if I don't know what you believe in. I have to go right back to what I think—

Mr. OTTING. —to your office and I will come by and we can—

Mr. CAPUANO. No, that is—you are welcome to come by any time but this is a public hearing, and I figured I would ask some questions. But I guess I have to just revert to what I think of the Trump Administration, then, if you refuse to answer my questions about what you believe. Because I do believe discrimination exists. I do believe economic disparity is growing. I didn't blame you. I didn't blame the Trump Administration, but I believe it exists and I do believe it is expanding.

Last year, do you agree or disagree with the Wall Street Journal's assessment that the OCC made it harder—this is a quote, “made it harder for banks to be penalized under the CRA.”

Do you agree or disagree with that statement?

Mr. OTTING. I disagree with that statement.

Mr. CAPUANO. Great. So The Wall Street Journal, the well-known, pro-business magazine newspaper of the world is wrong in their assessment about business.

When you were at Hanover, did you ever eat at Lou's?

Mr. OTTING. No, I did not.

Mr. CAPUANO. Do you know where Lou's is?

Mr. OTTING. I don't. I ate at the Hanover Inn.

Mr. CAPUANO. Well, Lou's is right down the street. It is where working class people—and the Hanover Inn is where the alumnae, that is where they eat. When you are in school, you eat at Lou's because you generally don't have enough money to eat at the Hanover Inn, but I am glad you did.

When you were at the Hanover Inn, did you observe the speed limit along South Main Street?

Mr. OTTING. I did not drive.

Mr. CAPUANO. It was about 30 miles an hour.

Do you know that there were some people there—I guess I am going to run out of time and I am going to give it up, because I have to give you credit, Mr. Otting, you got me. Never having seen discrimination, you are a very lucky man.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair recognizes the gentlelady from Missouri, Mrs. Wagner, Chair of our Oversight and Investigations Subcommittee.

Mrs. WAGNER. Thank you, Chairman Hensarling.

Comptroller Otting, I am over here. I know that the OCC is working on reevaluating the Community Reinvestment Act as is

the U.S. Treasury Department, so let me start there. In past remarks, you noted, and I quote, “community groups don’t like the way CRA is today. The banks don’t like the way CRA is today, the regulators don’t like it.”

In addition, Treasury Secretary Mnuchin said at a hearing just last June, banks—I quote again, “banks spend billions and billions and billions of dollars fulfilling their CRA obligations. I want to make sure it is absolutely going to help communities and isn’t just a check the box to satisfy regulators.”

Comptroller, what is the OCC’s overlying diagnosis of the problems with the CRA?

Mr. OTTING. I think there are three core problems that we would like to solve for. One is we need a more objective way to measure a bank’s success in CRA. Today, we have a very subjective points process. I have been putting forth an ability to look at a balance sheet item that deposits total assets or tier one capital, add up all the activities that a bank does. And an example of that, of \$100 million of CRA at a billion dollar bank, they would be at 10 percent. We could apply that universally across the industry and it would be easy to understand a bank’s commitment to CRA.

Second of all, today, we have a very narrow description of where people are doing their CRA activities, and it is predominantly residential mortgages and multifamily and low- to moderate-income areas. I think we need to expand the definition of what qualifies. I think we have a cap on \$1 million over revenue for a small loan. In East Los Angeles, if a company is \$1.5 million in revenue and creating 30 jobs, then I think that should qualify. I also know the difference between State and church. But in the Black and Latino communities in America, that is where people go for job counseling, that is where they go for helping them get ahead. And so the minute a church is identified with the CRA thing, it is disqualified. I think that part should be—

Mrs. WAGNER. And the third? Because I have other questions.

Mr. OTTING. And the third is we have a process where we do examinations every 3 years; it takes us 6 to 24 months to complete the exam. If we can fix the first one where we can be more economic, we can almost perpetually be able to say a bank is in compliance with their CRA activities.

Mrs. WAGNER. Sounds like there are many areas and avenues of reform and betterment to actually reach these communities that have occurred since the 1970’s.

Mr. OTTING. I would agree.

Mrs. WAGNER. In your spring 2018 rulemaking agenda, you provided the date of May 2018 as the anticipated date for an advance notice of proposed rulemaking, ANPR, for the CRA reforms, but we still have not seen anything as of today, Comptroller. When do you expect the OCC to finalize its recommendations for that ANPR?

Mr. OTTING. I get up every day trying to advance that ANPR.

Mrs. WAGNER. Timeframe?

Mr. OTTING. A lesson learned of coming to Washington, D.C., is you put yourself out there a little bit, and I would tell you I am hopeful now in the next couple weeks that we can get that out.

Mrs. WAGNER. Next couple of weeks. That is great. Well, we look forward to it also.

Mr. OTTING. Thank you very—so does everybody else in America.

Mrs. WAGNER. Does the OCC have plans to issue in conjunction with other agencies? And what has been the OCC's involvement with other Federal agencies and financial regulators to this point?

Mr. OTTING. It has been an attempt to be a multiagency effort. The OCC has been ready since March to issue the ANPR, and we are hopeful that we can make this a joint agency action.

Mrs. WAGNER. Do you anticipate any major differences between the Treasury report and the OCC's vision for CRA reform? And if so, what are they and why?

Mr. OTTING. I do not. I follow the Treasury closely. Obviously, Secretary Mnuchin and I teamed up to have a CRA plan. We worked within the confines of the CRA, and we are both very energetic about creating more opportunities for banks to serve low- to moderate-income areas across America.

Mrs. WAGNER. What areas for CRA reform can be accomplished primarily through agency rulemaking and guidance, and what areas of CRA reform will require congressional legislation, do you think?

Mr. OTTING. A hundred percent can be done through the agencies.

Mrs. WAGNER. Wow. That is fantastic.

Well, as Chairman of the Oversight and Investigation Committee, I look forward to your report, I look forward to reforms that perhaps have been decades and decades overdue and bringing this up to date to make sure that we are taking good care of our low- and moderate-income communities and giving them the chance at the American Dream.

I thank you for your hard work on this, Comptroller.

Mr. Chairman, I am about to run out of time, and I yield back.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

And thank you, Mr. Comptroller, for helping the committee with its work.

I want to go back to the Chairman's earlier question, and also Mrs. Maloney's. In response to the Wells Fargo situation, where Wells Fargo actually robbed their own customers by opening up accounts and charging them fees for which they were not authorized to do so, we had this horizontal review that you described in your opening remarks, 40 banks. And it is your estimate, based on that, that there are about 20,000 questionable cases.

I was wondering, of these 40 banks, is it fair to assume that some of them had strong new account policies?

Mr. OTTING. I would say yes.

Mr. LYNCH. And some did not, right?

Mr. OTTING. That is correct.

And it wasn't that we found violations; it was that there weren't specific policies that were part of their risk management process. So I want to just be clear—

Mr. LYNCH. Yes, I understand what an MRA is, a matter requiring attention. I—

Mr. OTTING. Right.

Mr. LYNCH. —understand that. But here is what I am getting at: Our goal is to try to hold the bad actors accountable, if possible. And so you did this whole study, and then you never named anybody, even though you found 20,000—or, 10,000, I guess, were without authorization, but 20,000 cases in general.

How do we hold people accountable when you treat the good guys—and you say there are some people that had strong policies—the same as the ones that had less so?

It is just, we are trying to hold people accountable. I think doing the investigation and then not holding people accountable publicly is creating a moral hazard. We did the right thing with respect to Wells Fargo, with the fines and all that, and went after them, but I just think, in that industry, there is a lot of “me too”-ism, and you will see activities in one bank, if they are successful, will be copied by other banks. And I am not seeing an approach from OCC that would curtail other banks from following in this type of conduct if we are not going to hold them responsible.

Mr. OTTING. I don't think you can say that the institutions did not hold the individuals responsible. There were actions with certain employees. And I think, does that mean that you announce which employees were being—

Mr. LYNCH. I guess what I am saying is hold them publicly responsible.

Mr. OTTING. Yes. So I think I mentioned in my comments that these were currently under supervisory activities, and we are following these MRAs.

Mr. LYNCH. OK.

Mr. OTTING. And so to announce these during that process I think would be inappropriate.

Mr. LYNCH. OK. Fair enough. No, that is a good point.

Let me ask you, there is some talk about amending, reforming the Bank Secrecy Act, and there is talk specifically about reducing the amount of information. I am talking about CTRs, cash transaction reports, and suspicious transaction reports that go to FinCEN. What do you think about that?

Mr. OTTING. I think it should be open for review.

There are nine million CTRs that are produced today from the national banks, and the viewpoint, the question—it is \$10,000. I think we produce a lot of paper, and I am not sure it gets to the point where we are catching the right people. Often, businesses that have been working with banks for a long period of time get caught structuring at that lower dollar amount.

Mr. LYNCH. Yes.

Mr. OTTING. And so there is an estimate that 20 to 25 percent of those are good American citizens with businesses trying to move money back into the system illegally and they get caught in that current lower level of CTR.

Mr. LYNCH. Yes. Well, I trust you are talking with FinCEN?

Mr. OTTING. We are. We have a joint—

Mr. LYNCH. We talk to—just so you know, we on the committee, we have sat with the Financial Crimes Network, and they expressed a need for the data. It gives them a—if you are looking for a needle in a haystack, you need the haystack, in terms of what they look for.

So I am just cautious about doing that. We have a lot of bipartisan interest in protecting our banks and making sure that people of nefarious intent do not abuse that for terrorist purposes or money laundering. And I would just advise you or caution you to share that caution with us in terms of making it easier for someone, perhaps, to use the legitimate banking system for terrorism or money laundering purposes.

Mr. OTTING. Yes, Congressman Lynch, I agree with you. I think there are some things around the edge that we can improve. But the long term, I think, is how we take a database of all the transactions and make that available to law enforcement. And what we are finding when there are some pilots doing that, the hit rates are much higher and there is less of that other activity. You may be familiar with some of those.

Mr. LYNCH. I am.

Thank you, Mr. Chairman. I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Kentucky, Mr. Barr, Chairman of our Monetary Policy and Trade Subcommittee.

Mr. BARR. Thank you, Mr. Chairman.

And, Mr. Otting, welcome to the committee. Good to see you this morning.

Your predecessor began an effort to provide special-purpose charters to fintech companies, as you know, and my understanding is that a number of critical policy questions remain unanswered.

Will you commit to ensure that the public, including Congress, has an opportunity to weigh in on these critical questions?

Mr. OTTING. We have been on a process to review whether we would issue a special-purpose charter in July, and that is the track that we are on at this point in time. I would be happy to work with your staff or any other Members of Congress that would like me to come by and have some dialog on that topic.

Mr. BARR. That would be great. I appreciate that. We would like to know what the OCC is thinking on this topic and what types of fintech companies might be eligible for such a charter.

Obviously, there has been much debate and discussion concerning fintech lenders and the challenges of serving a national marketplace with a 50-State patchwork of confusing and conflicting State regulations, and this includes the topic of the OCC fintech charter. Yet multi-State-focused brick-and-mortar-based lending offices, which also use financial technology, seem to have been left out when discussing solutions and the need to modernize regulations.

These so-called click-to-brick lenders cover a market segment that online lenders cannot fully serve, especially for those consumers who have the greatest need for more hands-on underwriting and servicing. And these consumers include many hard-working families as well as entrepreneurs and small-business startups.

So it seems to me that, to the extent that the OCC does move forward on a national charter, that we would need a comprehensive approach so that we don't leave out important market segments that continue to struggle with an antiquated regulatory model.

How can the OCC or any Federal regulator, for that matter, address the need for modernization of the nonbank lending regulatory environment, especially for those delivering their services across multiple State lines and having to contend with this patchwork of conflicting and sometimes contradictory regulations?

Mr. OTTING. So, Congressman Barr, regarding nonbank, that is generally not an area that the OCC is involved in. The Bureau is involved in that. Those that would want to become a bank through any kind of charter application would have to go through capital liquidity and serving their community. So I think to answer your question, I am not sure I am in a position to do that.

Mr. BARR. So is it your position that the OCC is not the appropriate regulator for nondepository institutions? If Congress, for example, were to offer that opportunity for you to expand your regulatory jurisdiction, would that be something that you would say would be outside of the expertise or capabilities of your agency?

Mr. OTTING. I wouldn't say it is outside the expertise. And I do think, Congressman Barr, that some fintechs will elect not to have deposit-taking capabilities; they will fund through another source. And we do think that some of those institutions have sufficient liquidity and capital to do that.

Mr. BARR. Well, to the extent that there would be a national charter, whether it would be OCC or the Bureau or another regulator—

Mr. OTTING. Well, the Bureau would not have the authority to issue a charter.

Mr. BARR. Under current law, correct. Right.

Would it be important in terms of leveling the playing field with an optional national charter to include not just the click-to-click but also the so-called click-to-brick? Would that, in your mind, be an appropriate response to addressing the national charter concept?

Mr. OTTING. That they could apply for a national banking charter? Yes.

Mr. BARR. And, obviously, the special-purpose fintech charter has received lukewarm interest because of a number of factors, including the threat of litigation from States and the fact that a charter won't offer the ability to raise cost-effective funding through deposits. But, at the same time, the special-purpose charter would offer substantial benefits in preempting these conflicting State laws.

If the OCC does not move forward with a charter, what can it do to support innovators that make loans over the internet and either have an interest in becoming a bank or partnering with a bank?

Mr. OTTING. So a number of the State banking agencies have been in to talk to us, and a lot of them are trying to create coalitions where they can standardize the State banking laws.

We see that with the MSBs, with a number of States coming together and standardizing their MSB laws. So if somebody wants to operate in multiple States, they don't just have one choice, which is a national banking charter, but they can actually operate within those States with common laws.

Mr. BARR. Thank you. I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from California, Mr. Sherman.

Mr. SHERMAN. Mr. Chairman, I would like to respond just a little bit to the economic picture you painted in your opening statement. And I focus on annual statistics. Monthly statistics just jump up and down.

In terms of jobs, since Dodd-Frank became effective or was enacted, the first full year was 2011, we have had 7 years of strong economic growth, and we have created in that 7 years 17 million new jobs, 2 million of them created while Mr. Trump was in the White House. That is 2 out of 17.

Economic growth last year was 2.3 percent. That is somewhat lower than the average of the prior 3 years. It is still good to have some economic growth. We look forward to higher levels of economic growth.

And, of course, our trade deficit with China last year was at an all-time high of \$375 billion.

We all hope that America is successful, but, in evaluating a Presidency, a President like President Obama, who inherited a plane that was careening toward the ground and turned it around so it is headed up, deserves substantial credit. A President who inherits a national economy that is on its way up and is able to continue that increase at perhaps a slightly lower rate than he inherited does not, thereby, win a Nobel Prize.

I will ask Comptroller Otting: Back when I was young, banks didn't always just lend to triple-A-rated giant institutions, they took some risks. They didn't take risks on subprime, financially engineered, super-default-swaparoo things; they lent to the small businesses in our community. And they didn't even get a government guarantee to do it.

And in order to take those risks, they charged prime-plus-2, prime-plus-3, prime-plus-4 on loans to smaller businesses because there is always a 1- or 2-percent chance that such a business goes under.

In more recent times, banks have been able to take enormous and catastrophic risks on the giant, financially engineered products, but they tell me that they are constrained in taking the moderate risk associated with a loan to a local pizzeria unless they can get it SBA-approved.

How will your auditors react if they see that a bank has 5 or 10 percent of its portfolio lent to small businesses in its community at rates of prime-plus-3 or prime-plus-4 precisely because those very businesses have a credit risk that justifies a prime-plus-4 loan? Can they devote a chunk of their portfolio to that kind of loan, or is it basically a world in which they can't take those kinds of risks?

Mr. OTTING. As long as it is within their risk tolerance and their risk statement, then the examiners would not offer any issues associated with that portfolio.

Mr. SHERMAN. Within their risk—I have been told by every small-bank officer that I have talked to that if they had prime-plus-4 loans your folks would come down on them very, very hard.

Do you find that banks are able to make non-government-guaranteed loans, without demanding the owner pledge his or her house, to small businesses?

Mr. OTTING. Well loans are made based upon a primary and secondary source of repayment, and that is the way the risk rating is determined. So if a small business has cash-flow that can cover their obligations plus—

Mr. SHERMAN. What if the business' economic position was such that it would be fair to charge them prime-plus-4, even prime-plus-5? Does that disqualify—that means that there is some risk with the loan.

Mr. OTTING. Pricing is not the factor when we are looking at the safety and soundness of the loan. It is—

Mr. SHERMAN. So, basically, you are saying that the loan has to—

Mr. OTTING. There has to be a primary and secondary source of repayment on the loan.

Mr. SHERMAN. And if there is a 5-percent risk or a 2-percent risk that it will not be repaid according to its terms, what do your people do?

Mr. OTTING. You are saying the loss given defaults and the losses associated with that loan? Is that what you are saying?

Mr. SHERMAN. I am saying that there is a significant risk that the loan will not be repaid according to its terms, the 2- to 5-percent risk that is—

Mr. OTTING. Well, I think it would be the level of reserves that someone has against that particular loan based upon the expected default and loss factor.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from Florida, Mr. Ross. Mr. ROSS. I thank the Chairman.

When it comes to CRAs—I was just reviewing your testimony again—you note in your testimony the stakeholders involved are extremely dissatisfied with both process and results.

What is the underlying problem with CRAs?

I also note that you mention in there about incentivizing banks to take more interest in their neighborhoods. And as we move to more and more online banking and less and less branch banking, my concern is that there are neighborhoods, communities under the CRA that are going to be overlooked. And I know you have addressed this.

And so my first question is: What is the problem with the CRA as we know it today with allowing for this incentive for banks?

Mr. OTTING. Yes. I am not sure I said incentives for banks—

Mr. ROSS. Encourage banks. You used the word “encourage.” I am sorry.

Mr. OTTING. Yes. So I think today we have a subjective way that we measure banks' success under CRA. Second of all, we have a very narrow product that is being deployed to achieve CRA results. And the third issue is that we have a very complex examination process every 3 years that is difficult to turn that around.

Mr. ROSS. When do you think the OCC will begin its formal process for revising the CRA on behalf of national—

Mr. OTTING. I arrived on November 27, and on November 28 I began the process.

Mr. ROSS. Thank you. Thank you.

One of the things I also noticed was, you are going through a rulemaking process that would allow banks to provide short-term, small-dollar loans, I guess payday loans. Is that what we are talking about?

Mr. OTTING. No, we are not going through a rulemaking. We issued a bulletin. There are two segments. There is the 0 to 45 days, which is normally defined as a payday loan, where there is one source of repayment. We issued a bulletin to encourage banks to get into the market that is 46 days or longer—

Mr. ROSS. OK. I appreciate that clarification.

Mr. OTTING. Yes, which generally is paid from multiple paychecks over a period of time. And banks had exited that business in 2013, and we have encouraged them to go back into that space.

Mr. ROSS. Would that also include overdraft lending?

Mr. OTTING. It would not.

Mr. ROSS. OK.

With regard to the Bank Secrecy Act and anti-money-laundering legislation, one of the ways in which you have phrased the current BSA/AML examination is a “gotcha” system, in which an institution’s compliance regime can be deemed deficient based on a single or isolated incident.

What steps is the OCC going to take to ensure that the BSA compliance is geared primarily toward deterring illicit activities and not just assessing fines?

Mr. OTTING. Well, first of all, I don’t know if you were here when I made the comment—

Mr. ROSS. I was not.

Mr. OTTING. —that the OCC led an interagency effort, which included the Fed and the FDIC. Our staffs and the principals that got together, and we came up with 14 items that we thought could improve the current system that banks are using. We submitted that to FinCEN at the beginning of May.

Last Friday, they came back to us with some edits. We plan to use that as our control document and create a group of people that will work on BSA and similar matters. There are some things that we can do, some things we will need—

Mr. ROSS. It is more proactive?

Mr. OTTING. That is right. Right.

And I would say our viewpoint is we have a very cumbersome, paper-oriented process, producing lots of documents that I am not sure gets to the core of stopping people from using our banking system inappropriately.

Mr. ROSS. Under the current BSA framework, do you believe that financial institutions are required to collect information on their customers that are of no use to law enforcement?

Mr. OTTING. They are required to comply with the currency transaction reports. And when they identify suspicious activity, they are required to complete SARs.

Mr. ROSS. Right. But, otherwise, collection of information other than for that purpose would be inappropriate under the Bank Secrecy Act.

Mr. OTTING. You would have to give me a specific example, but, yes, as a general rule, I would agree with you.

Mr. ROSS. OK.

Is the OCC currently working to improve the type and amount of information required to be collected and how that information is communicated to law enforcement or regulators?

Mr. OTTING. I think through the initiative with the BSA, I think we can get there.

One of the key things, I think, is an important element of stopping bad people is that we make that information available. I think it is really critically important for us to be able to have dialog with what is important to law enforcement to be able to stop an illegal activity.

Mr. ROSS. And what protects the privacy of the customer.

Mr. OTTING. That is correct.

Mr. ROSS. Thank you.

That is all I have. I yield back the balance.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from Georgia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Otting, let's go back. I want to talk to you about the possibility, first, of the fintech special order. Are you going to offer it, or are you not?

Mr. OTTING. We have not concluded a decision at this point.

Mr. SCOTT. You are aware that, when your predecessor offered that, that the Conference of State Banking Supervisors filed suit against you, against the OCC. What is the disposition of that?

Mr. OTTING. My disposition is that the National Banking Act gives us the authority to issue that charter.

Mr. SCOTT. So, legally, where is that suit? Has it been dismissed?

Mr. OTTING. No. The judges in those cases found that there was not cause at this particular point in time on those lawsuits because we had not actually entertained any applications.

Mr. SCOTT. Well, for the very nature of that suit, and when you look at it from the standpoint of the fintechs themselves, unless we can find a way to satisfy some of the concerns that the State banking regulators—who certainly have first call on this. Because these fintechs don't call just one State home; they operate across the Nation in 50 States. So there is a role for the State banking supervisors. If that is not resolved, then we are putting the fintech companies in a very untenable position.

Now, that is one point. The other point is that—you came by my office, and thank you for that. We had a wonderful visit. And at that office, I shared with you legislation that my staff is working on, in conjunction with both the Democratic staff on this committee and the Republican staff, to come up with a bipartisan piece of legislation that clearly needs to be put forward first.

These fintechs are faced with a plethora of regulators. You have yourself, and you have this problem with the State supervisors. You also have the FDIC. Some fintechs may even go for that charter for industrial loan companies. And if they do that, they fall under a very serious benefit of being able to compete in a way that puts the smaller banks at a disadvantage because they won't have to jump through the same hoops to get that Federal Reserve insurance for their deposits. You have that. And then you have the CFPB with project catalysts, and they have offered only one letter

of action—of no action over all their period. And then you have LabCFTC.

My whole point is that it is my hope that you have had a chance to—as we said, you were going to chat with my staff and get the idea of the legislation that we are proposing. It is so important that, as we move to find out how we are going to regulate this burgeoning industry, that we don't move so haphazardly that we suffocate the innovation of this industry.

And so did you get a chance to contact my staff and get a look at it?

Mr. OTTING. Yes. Our Office of Innovation staff met with your staff as a follow up to that meeting.

Mr. SCOTT. So they have that. So what do you think?

And just as a prelude, the legislation would require something first before we really get in this, which—we know all these different agencies are biting at the bit to regulate this industry. So our legislation will be to set up and require that these regulatory agencies harmonize and coordinate, make that a requirement going forward. Because you got so many wanting to get into them. If not, we are going to be very destructive to this burgeoning industry.

And I asked you, I said, I hope that you will be with us on this. So you agree with us, right, for the record, that that is what we want to do?

Mr. OTTING. I don't disagree with you, but it really depends upon where the fintech decides they want to be domiciled, in what regulatory agency. If they are going to operate in a particular State, then most will choose to be regulated by that State banking group or a multi-State—

Mr. SCOTT. And that is why another part of the bill will be to get the fintechs a point of entry.

So I am just saying we have to look at it from the standpoint of how do we effectively regulate this new, burgeoning industry.

Chairman HENSARLING. The time of the gentleman has expired.

Mr. OTTING. I would be happy to come by and have further dialog with you.

Mr. SCOTT. All right. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Illinois, Mr. Hultgren.

Mr. HULTGREN. Thank you, Chairman.

Thank you, Comptroller Otting. Appreciate you being here.

Mr. OTTING. Thank you.

Mr. HULTGREN. As you noted in your written testimony, S. 2155 includes a provision requiring the Federal banking regulators to permit for a short-form call report every other quarter for institutions with less than \$5 billion in assets. Obviously, Congress would not have called for this change if we were satisfied with the relief from the call report being considered via the EGRPRA process.

I sponsored the stand-alone bill in the House with Terri Sewell and also Andy Barr. So I am very interested in your plans on implementation of this legislation. What is a reasonable timeline for banking regulators to propose and finalize regulations? And I wondered if you have thought at all about what a short-form call report might include.

Mr. OTTING. First of all, earlier in my comments, I said we have organized a group of people within the agency, a task force, to focus on the entire bill. We have narrowed things into what can we do short-term very quick, what are medium-term that we have to write a rule, and then what will require interagency.

This is an area that we think we can implement very quickly—
Mr. HULTGREN. Great.

Mr. OTTING. —and I can tell you that we have all of our resources moving fast on this particular issue. I can't give you an exact timeline, but I would be happy to follow up as we get further along the path.

Mr. HULTGREN. Thanks. That would be great.

I also would ask or would recommend you and those who are specifically tasked with that to take a closer look at what the Independent Community Bankers of America has proposed as a reasonable short-form call report. This includes "Schedule RI—Income Statement," "Schedule RI-A—Changes in Equity Capital," and "Schedule RC—Balance Sheet."

If I can move a little bit, I wanted to ask briefly and see if I could ask you to discuss with you the treatment of centrally clear options as it relates to our risk- and leverage-based capital rules.

The Treasury Department's October 2017 report on capital markets notes, and I quote, "The CEM may be responsible for a corresponding reduction in banks' ability and willingness to facilitate access for their market-maker clients, who are the primary liquidity providers in these markets," end quote.

I understand this concern was realized by some market makers during some of the volatility incurred by the markets earlier this year. I have talked with dozens of market participants and many of my friends on the other side of the aisle, and there seems to be strong agreement that our capital rules should be tweaked in order to improve liquidity in listed options markets. Our challenge has been getting the undivided attention of the banking regulators to address this.

I wondered, would you commit to work with your colleagues at the Fed and FDIC to address this issue?

Mr. OTTING. Yes, I would.

Mr. HULTGREN. Great. Thank you.

I also want to thank you for your work to reconsider aspects of section 619 of the Dodd-Frank Act, the so-called Volcker Rule. One specific topic I would like to raise with you is the Volcker Rule's detrimental impact to venture capital funds and the startup companies that they support.

Before the Volcker Rule, banks provided 7 percent of dollars invested in venture capital funds and were a reliable source of funding for smaller venture capital funds, as they are not as attractive to larger, institutional investors.

I wonder, do you believe that venture capital funds should fall within the definition of private equity funds, first? And has the OCC studied how a change to the covered-funds prohibition that exempts venture capital would permit for more investment in startup companies and overall economic growth?

Mr. OTTING. I do believe it does fall under the current definition. I personally have sat on two boards of financial institutions that

did those type of equity investments. I did view it as a legitimate, stable source of proceeds to funds that invested in small companies across America. And we did put out in a notice of proposed rule-making at least for people to comment on the definition.

Mr. HULTGREN. Great. Yes, I would agree that this really is the backbone, and we want to continue to encourage small companies to grow but also to go public. It is something that we talk about all the time here, of really the harm that is done to mom-and-pop investors by not having more of these smaller companies grow to become public and choose to become public.

Also, I am sure as you are probably aware, this change that I have talked about is recommended by the Treasury Department's October 2017 report on capital markets.

And, again, thank you. I would just continue to ask that you and your colleagues at the other financial regulators prioritize this when considering changes to the Volcker Rule.

Last question, in the last few seconds: The OCC has begun consideration of a special-purpose charter for fintech companies. This was a priority of Comptroller Curry. However, this process seems to have stalled over the last year.

Where is the OCC on the process? And how do you envision a fintech charter working? Do you believe your views differ from Comptroller Curry on this?

Mr. OTTING. Once I arrived on November 27, I have spent a significant amount of time internally with a number of the agencies' people. We have done a lot of work.

We have publicly said that in July we will make a decision whether we will formally allow applications to come in for a fintech charter, which we call a special-purpose charter. It is our expectation that that will require capital liquidity and serving the community like any bank across America.

Mr. HULTGREN. Thanks again. Appreciate your time.

My time has expired. I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Cleaver, Ranking Member on the Housing and Insurance Subcommittee.

Mr. CLEAVER. Thank you, Mr. Chairman.

Comptroller Otting, here in Congress, we can choose, pretty much, what we are going to be, and I have chosen to be respectful. I have to say your earlier response to Mr. Capuano was stupefying, even jaw-dropping, as it relates to discrimination.

If you believe polling data, the Washington Post-Harvard study shows, first of all, that the level of racial animus is at the highest level today that it has been since 1997.

And it is a little disconcerting to me, because the United States has never eliminated any of its problems by denying that it existed. You did not deny that it existed; you said you just had never seen it.

I was wondering if you were aware of what happened recently in Charlottesville.

Mr. OTTING. I only observed that from what I was able to see in the news.

Mr. CLEAVER. So you wouldn't be in a position to know whether or not there were people who were wrong or right, or the supremacist who spoke, who acted. Based on what you saw on TV, I guess, and read, you don't attribute one side as having way more than discriminatory feelings. What did you witness?

Mr. OTTING. To be honest with you, I don't watch TV. If it is not on ESPN or CNBC—I am not a TV watcher. I saw what was across the headlines, but I didn't spend specific time to study or analyze what took place.

Mr. CLEAVER. So you didn't read any of the articles in the newspaper?

Mr. OTTING. I don't read a newspaper.

Mr. CLEAVER. This is very difficult for me. One of questions the I wanted to ask was about the charter and whether or not you believed that there needed to be something in the charter about minority inclusion. But there would be no reason for minority inclusion if there is no exclusion. So I am assuming that that is not going to be anything you would address, since you are not aware that it even exists on the planet.

Mr. OTTING. Well, no. I would say I am a big believer in minority inclusion. I think my track record through my banking industry—there are many people who would say that Joseph Otting spent more time in the inner cities of America than most banking executives across the world.

Mr. CLEAVER. Yes, well, that is—yes.

Mr. OTTING. But on a particular example like you are describing, I don't have a personal opinion on that.

Mr. CLEAVER. And you don't have a personal opinion on whether there has been any discrimination in banking?

Mr. OTTING. Again, I have not personally observed that.

Mr. CLEAVER. Mr. Chairman, I yield back. I can't go any further.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from California, Mr. Royce, Chairman of the Foreign Affairs Committee.

Mr. ROYCE. Thank you, Mr. Chairman.

On May 23, you issued a bulletin encouraging banks to make responsible short-term installment loans. Are you tracking whether banks have reentered the market since the bulletin came out?

Mr. OTTING. Congressman Royce, we communicated with banks shortly after my arrival that this was one of my priorities.

Most banks had shelved any products that they had after 2013. I have personally met with all of the large-bank CEOs and asked them to take a look at being involved in this. And I think it will take a period of time.

Most of the regional banks, I think, are reacting quicker, because they had products that they thought they could bring to market. It will take a longer period of time for banks to work through their products and then go through their risk process before they offer those products into the market.

Mr. ROYCE. Maybe we could look at what metrics there are to date in a week or 2, and you could get back to me with some more specifics on that.

Mr. OTTING. Yes. I would be happy to. I think it is going to take a period of time to—

Mr. ROYCE. Yes, I understand your argument there. I see your point.

One area where there has been some confusion based on the recent bulletin are bank-fintech partnerships, such as marketplace lending programs. Some have construed a provision clearly targeted—it looks to me like it is targeted to rent-a-bank schemes. But they view that as undermining bona fide partnerships between banks and fintech lenders.

And some have wondered about a clarification on this—I think there was some in the press—that this is not the intention of the small-dollar guidance, but I was hoping we could hear you out today on the OCC's views on these arrangements.

Mr. OTTING. We are supportive of these arrangements with fintechs, where they are bringing technology to financial institutions that can do outreach to communities, customers, prospects. And so we are supportive of that.

We would expect them to go through their normal vendor management programs to assess the risk associated with those entities, but we are supportive.

Mr. ROYCE. OK. OK.

When looking at reform of the Community Reinvestment Act, you said that you are a big believer that we should stretch it to more small business, more community development.

The local bankers who I met with last week in southern California are frustrated that more small-business lending is not included. The classification of some loans doesn't get a complete picture of the impact banks are having in their communities, including, of course, in job creation.

So could small-business loans with a community-development purpose be classified as a community-development loan? Would that be an option, where you have that or as a loan under the general test?

Or maybe, going to some of the remarks you made this morning, when you talked about we need to develop a metrics-driven approach to evaluating performance, would adding these in a way into the standard metrics that you are trying to develop, would that be a way for the small banks and others to meet that test?

Mr. OTTING. Congressman Royce, I think the measurement element is different than the qualification element.

Mr. ROYCE. OK.

Mr. OTTING. And it is my belief we should broaden the category that includes—

Mr. ROYCE. Broaden the category.

Mr. OTTING. Right.

Mr. ROYCE. All right. And I will yield back then. I appreciate—

Mr. OTTING. You are welcome.

Mr. ROYCE. —that information.

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes the gentleman from North Carolina, Mr. Pittenger.

Mr. PITTENGER. Thank you, Mr. Chairman.

And thank you, Mr. Otting, for being with us today and for your testimony and expert witness.

I would like to ask you, what could be done today by regulators to encourage banks to offer short-term credit to our constituents?

Mr. OTTING. I am sorry, I missed your—

Mr. PITTENGER. What could be done by the regulators to help encourage banks to offer more short-term credit to our constituents?

Mr. OTTING. I think the guidance that we have been discussing goes a long way in doing that. I think the next big chunk of that is to look at the 45-day-and-under that is currently controlled by the rule that is going to go into place in the BCFP. And we would like to work toward—can we come up with a solution in that space that would allow banks to get back in there and do that in a fair and, I think, economic way for consumers.

Mr. PITTENGER. Could you speak, in addition, some more to what could be done to help increase greater transparency and investments in our communities that need it the most?

Mr. OTTING. You are talking about low- to moderate-income communities?

Mr. PITTENGER. Yes.

Mr. OTTING. What could be done more?

Mr. PITTENGER. In terms of just increasing transparency in this, the investments in these communities.

Mr. OTTING. Well, two things that I think are important is to identify more categories that can qualify by broadening the products that would receive credit under CRA. And, as I said earlier, I think there are parts of church activities that should qualify for CRA. I think in a lot of communities, people go to their church to get financial counseling.

Mr. PITTENGER. I agree.

Mr. OTTING. I think, also, our assessment areas, the way that they are often defined restrict a bank to a particular area. And I have seen examples where on one side of the street it qualifies as CRA and the next side of the street it doesn't qualify for a bank. So I think taking a hard look at how we narrowly define the assessment areas would broaden banks' perspective of where they can do their investment and lending activities.

Mr. PITTENGER. I appreciate your clarification on that.

In your testimony, you said, quote, "Bank regulators, law enforcement, national security personnel, and bankers must continually adapt to increasingly sophisticated criminals and other illicit actors who take advantage of the Nation's banks and financial system," end of quote.

If developments and advancements are critical to success, then why has the current BSA regime failed to undergo any significant changes since the 1970's?

Mr. OTTING. Why has it not?

Mr. PITTENGER. Yes, sir.

Mr. OTTING. I think it has. We have added to the process. And I think, with current technologies today, there are ways that we can take databases and scan those databases and use artificial intelligence to be able to go through them that are better than individuals looking at a currency transaction report and then filling out a SARs.

If you think about it, if you have one bank in a vertical and you are providing that SARs, but that bad person goes bank to bank

to bank, we don't tie that all together. And I think with technology we can start to tie that together and it is not a paper flow.

Mr. PITTENGER. In terms of compliance cost and related privacy issues that are of concern to many, would you think that the system would be better served if the government provided access to those accounts, that data that they are most concerned about, to banks, financial institutions, in lieu of the tremendous amount of SAR reporting that is required?

Mr. OTTING. It is probably halfway—that would be, I think, a valuable thing, if we knew what entities or individuals that are under the microscope that we could help.

But I do think that then you get into some issues along the lines of—there has been some legislation proposed that hold the bank harmless in the event that they continue those relationships with those accounts that they are not unduly criticized—

Mr. PITTENGER. Sure. They need a safe harbor.

Mr. OTTING. Yes, as long as they are holding those accounts open for the benefit of law enforcement.

Mr. PITTENGER. Yes, sir.

It seems to me that the process would be better served if the banks were responding to the concerns of law enforcement, rather than just providing innumerable numbers, millions, to the effect of SARs reports. And for responding, instead, to what they are looking for, we would have, it seems to me, a much better grasp of the privacy and security and civil liberty concerns by the public.

Do you have a comment on that?

Mr. OTTING. Well, today, we produce all this information. As I said earlier, there are about 10 million documents—9 million CTRs, a million SARs—that are produced. Generally, when there is a hit by law enforcement, they do go seek that additional information out from the banks today. So banks generally are contacted when there is some event associated with an individual.

But I think to your point is 97 or 98 percent of the information that we produce, very rarely do the banks hear back from law enforcement on the data that they are providing.

Mr. PITTENGER. Thank you. My time has expired.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Comptroller Otting, when the House considered S. 2155, I expressed concerns on many aspects of the legislation, particularly the increase in the SIFI threshold from \$50 billion to \$250 billion.

One of my concerns is that this new threshold continues to fail to take into account the actual risk posed by the largest institutions. Some over this new line continue to pose little risk to the system, while some below could pose substantial risk. This has been shown time and again by the Office of Financial Research under both President Obama and President Trump.

How do you propose to tailor regulations to a firm's actual systemic risk on both sides of the new \$250 billion threshold in order to continue to protect our Nation against systemic risk?

Mr. OTTING. I am actually supportive of those new guidelines that were issued. I do think banks' risk management is the best it has ever been in the 35 years.

It doesn't mean just because that guideline has been lifted that banks will not continue to perform some of those functions, and we will review those in our annual examinations of those financial institutions.

Ms. VELAZQUEZ. So I expect that you regulate banks on both sides of the \$250 billion with equal weight and scrutiny, those that are above 250 and those that are below. That would include most of the banks.

Mr. OTTING. We use a risk-based system to do the annual examinations. And so we look at all of those institutions and understand where we think there is risk, and based upon that, we provide resources to those supervised institutions.

So, to your point, if we observed significant risks being imminent or deployed in an institution, we would allocate resources to that institution appropriately.

Ms. VELAZQUEZ. OK.

I understand that leverage lending often serves as an important financing tool for many businesses across the country. However, I also believe that banks shouldn't be left without a regulatory roadmap to guide how such transactions can be made without compromising the safety and soundness of our financial system.

Earlier this year, you commented that, and I quote, "institutions should have the right to do the leverage lending they want as long as it doesn't impair their safety and soundness."

Can you elaborate on that statement and talk about what steps, if any, the OCC and other Federal banking regulators are taking to revise the 2013 interagency guidance on leverage lending, particularly in light of the GAO's (Government Accountability Office's) determination that the guidance was a rule for the purposes of the Congressional Review Act?

Mr. OTTING. First of all, thank you for allowing me to clarify my comments.

What was left out of that quote was the lead-up to it, where I said that banks would have to have the appropriate level of capital, they would have to have the people to properly analyze that risk, they would have to have a risk statement that was approved both by management and the board. And those were left off before they put the punch line in there, so to speak, so—

Ms. VELAZQUEZ. Was that CNN that reported that?

Mr. OTTING. No, it was not.

Ms. VELAZQUEZ. Oh, OK. Oh, so, then, you watch CNN.

Mr. OTTING. I don't watch CNN.

Ms. VELAZQUEZ. So how do you answer? OK.

Mr. OTTING. I know the particular—

Ms. VELAZQUEZ. All right.

Mr. OTTING. —news agency that produced that.

So your second question regarding the OCC's guidance on leverage lending, I am sorry, I missed the point you wanted me to address on that.

Ms. VELAZQUEZ. Well, the GAO determination, particularly in light of the GAO's determination that the guidance was a rule for the purposes of the Congressional Review Act.

Mr. OTTING. Yes. We have gone out of our way since that ruling to educate and make sure that our examiners understand the difference between rules and guidance. And we have issued documents within the OCC that clearly spell that out. And as part of that comment that you were quoting me on, I made that comment as well.

Ms. VELAZQUEZ. So are you going to appeal the guidance?

Mr. OTTING. No. We had put that guidance out for comment. Maybe you are saying are we going to reproduce that guidance for comment, and at this point we are not.

Ms. VELAZQUEZ. I yield back.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from Pennsylvania, Mr. Rothfus.

Mr. ROTHFUS. Thank you, Mr. Chairman.

Welcome, Comptroller. I want to thank you for your continued help and support for our Federal Savings Association Charter Flexibility legislation.

As you mentioned in your testimony, the reform that Congressman Himes and I have championed will provide Federal savings associations with the flexibility to operate with the same rights and duties as a national bank without having to go through a costly and time-consuming rechartering process.

This was recently signed into law as part of the bipartisan financial regulatory reform package.

Why is this specific provision so important?

Mr. OTTING. That provision, from my perspective—you may know that when I went to OneWest Bank we were a thrift, and part of my mission was to diversify the balance sheet for the institution. And so we grew our commercial loans and commercial real estate, and we quickly hit the cap at that point in time. And so we felt we were servicing the community.

And so our ability, like those particular entities, are looking to service their communities in a diversified manner, and often they hit those caps in a relatively quick period of time.

Mr. ROTHFUS. So, looking at the impact of this reform, what do you see happening in a community that has a thrift?

Mr. OTTING. I think they will broaden their support of the communities to which they operate.

Mr. ROTHFUS. Could you provide an update on the timeline for implementation?

Mr. OTTING. Earlier, I said we have created a bucket of things we think we can do quickly, things that we need to write rules on. And the third being, where we have to have interagency, that falls into the first bucket, that we think we can move very quickly on that.

Mr. ROTHFUS. Great. Thank you.

In your testimony, you discussed a number of possible avenues for reforming our outdated BSA/AML regime. Our committee has held several hearings on this issue, and I have had the opportunity to meet with a wide range of financial institutions and practi-

tioners. It is clear that this system needs to be modernized to account for the ever-evolving nature of the threat.

New technologies, like artificial intelligence, show considerable promise in helping financial institutions and regulators better combat illicit finance. I am proud that western Pennsylvania institutions like Carnegie Mellon University are leading the way in this field.

Could you explain how new technologies, like artificial intelligence, can help improve our approach to disrupting illicit finance?

Mr. OTTING. Sure. I think the way new technologies are going to work is that we are going to be able to go through interbank connectivity between bad-person activity.

Today, if you think about our CTR and other SARs process, it is generally a vertical within one institution. The bad guys are smart. They know the rules. They move money in, they move it amongst the organizations, and then they flush it out the door. If we can track that interconnection with those proceeds, I think technology will play a big, important role there.

Mr. ROTHFUS. Do you think there is anything that regulators or law enforcement can do to facilitate the continued development and adoption of these new technologies?

Mr. OTTING. I think there has been a lot of discussion about whether that should be a government or a private enterprise venture. And I think what you are seeing now is movement toward that being a private enterprise, and I think that will accelerate the activity.

Mr. ROTHFUS. I understand the OCC is continuing to study ongoing developments in the fintech space. What are some of the key principles that guide the OCC's approach to ensuring that we facilitate pro-consumer innovation while protecting the safety and soundness of the financial system?

Mr. OTTING. It is our expectation that a fintech would have similar capital liquidity requirements to serve their community as a regular national bank.

Mr. ROTHFUS. How can we guard against regulatory arbitrage?

Mr. OTTING. The way that I think we would guard against that is that those that want to serve multiple markets either have a choice, A, being that they go and they find States that will synchronize their regulation process, or that people will have to use the national bank.

Mr. ROTHFUS. In your testimony, you discuss the need to reexamine assessment areas for the purposes of bank compliance with the CRA. As you know, the current approach is largely based on an institution's retail branch footprint.

Mobile banking products are becoming increasingly popular. How should this development impact the way we evaluate future CRA compliance?

Mr. OTTING. Yes. I would argue, in some regards, the assessment areas have restricted banks' ability. As an example, when I ran OneWest Bank, we were in L.A. County; L.A. County was our assessment area, but we had branches in Inland Empire, Riverside, and Orange County. But those particular areas were not part of our assessment area, but we wanted to make investments in those areas, and we had to satisfy our Los Angeles needs first.

So I think looking at, more broadly, where are your customers, which would include mobile banking, and asking institutions to support those communities where their customers are, or their employees, I think will be important going forward.

Mr. ROTHFUS. I was intrigued with your conversation with Congresswoman Wagner about any kind of interplay or integration with faith-based organizations and CRA. Can you go over that a little bit?

Mr. OTTING. Could you ask that question again?

Mr. ROTHFUS. Whether faith-based organizations—how they can be integrated or helpful.

Mr. OTTING. I have lots of experience with faith-based organizations across the Nation. My observation is in the Black and Latino communities. Most of the families go to those church organizations for their financial counseling, job development—

Mr. ROTHFUS. My time has expired. I may want to follow up with you offline on that.

Mr. OTTING. I would be happy to do that.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Colorado, Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman.

Comptroller Otting, a pleasure to be able to see you here, and thanks for appearing before the committee.

One thing that you and I have had the opportunity to be able to visit about was—and I know you do understand this well, is the time from your time in the private sector is a need for certainty in terms of regulation and supervisory expectations for the banks that are under your supervision. And if you would, I would like you to be able to take a moment to speak about some of the controls that are in place to prevent that uncertainty from entering the examinations process in the event of a negative economic impact, and what steps your agency takes to prevent the potential of supervisory retaliation.

Mr. OTTING. Yes. We have very well defined controls. We have, obviously, an examination process that takes place. Generally outside that direct examination we have resident experts that also review the data associated with any examination. Then we have a deputy company comptroller that is generally involved in that. At any point in time that a bank would feel that they are not being treated fairly or their regulations are not being applied appropriately, they have a formal appeal process. And if they are unsatisfied with that formal appeal process, they can come through the ombudsman process, and that person reports directly to me and I meet with him on a weekly basis and we cover any of the items that have been brought up.

Mr. TIPTON. OK. Thank you for that.

I did want to express, one banker from my home State of Colorado observed that the regulatory environment of the past, specifically between the OCC and what we call the Consumer Protection Bureau, now the BCFP, presented the risk of double jeopardy, and has concerns that the regulatory agencies didn't coordinate with each other in terms of examinations.

Would you describe briefly how your conversations with the Federal Financial Institutions Examination Council informed you and the examiners' decisionmaking and how they determined that supervisory action is needed?

Mr. OTTING. First of all, I do meet with the FDIC and the Fed on a weekly basis, and we talk about all kinds of issues like this. And then I also meet with Acting Director Mulvaney. And where we have had actions that it has been generally at the principal level with staff and principal to resolve issues like that. And I would encourage you if any CEOs or banks that you are familiar with or interact with that have that issue, that they can call me directly, and I would be happy to have dialog and discussion with them on that.

Mr. TIPTON. Great. And so you are comfortable that the agency's ombudsman that handles the appeals process for the supervisory decisions regularly communicates and coordinates with the other regulators on the appeals to prevent double jeopardy?

Mr. OTTING. I knew you were going to ask me that question and there is a formalized structure where they meet frequently to have dialog about any particular issues as well.

Mr. TIPTON. OK.

Mr. OTTING. And as I indicated, I meet with OCC Ombudsman Larry Hattix every week and we talk about any items like this.

Mr. TIPTON. OK. And when we are talking a little bit about the in-house dialog that is going on, and I know that you can appreciate this from the private sector end of it; from a business standpoint, when you were in the private sector, would you have found it agreeable to be able to appeal a material supervisory determination that you felt was unfairly or erroneously determined back to the same agency that handed down the determination in the first place?

Mr. OTTING. I think it depends upon the leadership and the agency. But I would definitely feel comfortable in today's environment for a CEO to want to do that. And like I said, he would have the option to call me directly if he felt impaired by that process.

Mr. TIPTON. OK. And I guess just to follow up on that, I have a piece of legislation called the Examine Fairness Act, that I think you are probably aware of, to be able to have some independent examination for an appeal process. Is there a conflict? And again, I would just like to emphasize that point from when you were in the private sector, to appeal back, you may not always be in this position.

Mr. OTTING. Yes. I found when I was regulated by the OCC, I was totally comfortable with that process and always received, I think, satisfactory results when I appealed a decision of the EIC up into the agency. I never, at any time, had to go to the ombudsman because I felt that generally it was fair and complete, and oftentimes it was my misunderstanding of the rules or the regulations.

Mr. TIPTON. OK. Thank you. I appreciate your comments.

Mr. Chairman, I yield back.

Mr. HILL [presiding]. The gentleman from Colorado yields back. The gentleman from Maine is recognized.

Mr. POLIQUIN. Thank you, Mr. Chairman very much.

Thank you Mr. Otting very much for being here. I appreciate it. I congratulate you on your new position. I am sure it is stressful, and I want to remind you that Maine is Vacationland and this is a great place to go and have a summer vacation. I am sure your family would appreciate going up there and enjoying our 3,000 miles of coastline, blueberry pie, and lobster and moose and everything else. So when you want to go up there, make sure you give us a call, we will set you up.

Mr. OTTING. OK. Thank you.

Mr. POLIQUIN. You are very welcome.

Sir, I represent the rural part of Maine. Now, some people think that that is unusual, but there are parts of Maine that are not rural, not much, but there are parts. In the Second congressional District, we have about 400 small towns. We are a district of small businesses, small savers for the most part. And what I am concerned about is identity theft and other types of cybersecurity.

When you have folks in Maine living their lives and they have a credit card and a checking account, a savings account, maybe an IRA, and they are buying some property and casualty insurance, and it seems like every place they go, Mr. Otting, they are giving out their personal information. And this is a real issue, for the families that I represent, if something happens and there is a breach.

Now, I know that there are financial institutions throughout that sector of our economy that are regulated by different agencies. And sometimes you have the same financial institution that is regulated by the—by multiple agencies, like you folks at the Comptroller of the Currency or the CFPB or maybe the Federal Reserve. It is expensive. It is time consuming for these smaller financial institutions to do that work and at the same time making sure they are fighting those that are trying to rip off their personal information.

So do you folks coordinate with other regulators that are focusing on the same institution such that we can become very efficient and coordinated and not shore up time and resources you need to catch bad actors?

Mr. OTTING. I would say probably not as good as we should—

Mr. POLIQUIN. Why not?

Mr. OTTING. —would be the right answer. I would say, I think at the Federal level we have a much better level of coordination in conjunction with Treasury. There is a lot of activity. Obviously that when we go out and we do our examination on an annual basis, part of the normal exam is to look at the security parameters, look at the hardware, look at the software, make sure patches are up to speed. And we also do assessment of the recovery. As you know, somebody might have a product with us and have a product with a State bank, and the question that you have there often is coordinating when entities are not interconnected.

Mr. POLIQUIN. How do you fix that?

Mr. OTTING. I have heard the mention of national standards, and that is probably the way I think you ultimately get to that is some kind of national standard.

Mr. POLIQUIN. Has this been attempted in the past, Mr. Otting?

Mr. OTTING. Not that I am aware of.

Mr. POLIQUIN. And have you received these sort of inquiries in the past?

Mr. OTTING. I wouldn't say I have received inquiries in the past. I would say that the Treasury Department is trying to coordinate an approach amongst the Federal financial agencies to make sure that there is interconnectivity across the agencies.

Mr. POLIQUIN. And is this an ongoing loose, informal discussion or do you actually have an agenda item that you are working on to make sure this is addressed?

Mr. OTTING. I do not have an agenda item.

Mr. POLIQUIN. What would it take to get one?

Mr. OTTING. Probably knock out CRA, BSA, knock out small-ticket lending. And I would be happy, once we get the capital and the Dodd-Frank issue done, to put it in the queue.

Mr. POLIQUIN. I appreciate very much that forthrightness and also the interest in working with us on that. Thank you very much on that, Mr. Otting.

You mentioned earlier today on a different topic that you are considering a new charter for fintech, and you mentioned that that decision will be made in July. Are you comfortable and confident that all the stakeholders have had the time they need to weigh in on this issue?

Mr. OTTING. I think there has been a lot of dialog and discussion on this particular topic. Am I comfortable at all? I don't know if I could define the word "all" correctly, but I think a lot is the way I would describe that.

Mr. POLIQUIN. Are you comfortable enough to make a decision?

Mr. OTTING. Yes, I would be comfortable enough to—and we haven't made the decision yet, because this is somewhat unique that if you think about it, if they don't have deposits and we would be the resolution of a failure of one of those institutions. So we have had to look at the whole linear approach to that process. But we have also said that we expect capital liquidity in serving the community to be part of any charter.

Mr. POLIQUIN. Thank you very much, Mr. Otting. I appreciate very much you being here, sir.

I yield back my time. Thank you.

Mr. HILL. The gentleman from Maine yields back.

The gentleman from Minnesota, Mr. Emmer, is recognized for 5 minutes.

Mr. EMMER. Thank you, Mr. Chair.

Thank you, Mr. Otting, for being here. I don't know if we crossed paths while you were in Minnesota.

Mr. OTTING. I don't believe so.

Mr. EMMER. I think you were on your way out a few years ago, but 2010 maybe?

Mr. OTTING. Yes, that is correct.

Mr. EMMER. Well, you are welcome back any time. Mr. Poliquin waxes poetic about this mystery land up in the northwest—east part of our country, but Minnesota is—

Mr. OTTING. I have been northern fishing up there.

Mr. EMMER. I just want to ask you a couple of questions in a couple different areas. One, first, because of your background in banking in the financial services industry, is it safe to assume that you are familiar with the concept of de-risking?

Mr. OTTING. Yes.

Mr. EMMER. To what extent does the complexity or uncertainty surrounding our current Bank Secrecy Act/anti-money laundering regulatory regime contribute to the practice of de-risking?

Mr. OTTING. I am not sure that that regime necessarily contributes to it. I think what it does is it identify—helps identify entities that are conducting those kind of activities.

Mr. EMMER. And then from your experience, where does it go from there?

Mr. OTTING. And then, generally, a financial institution will evaluate the risk and the controls of a particular entity and a segment of the industry. And I think where we have had some problems is the amount of controls that they need, perhaps the company won't provide those, or they can find another alternative that doesn't require those controls, or the cost in the institution to provide oversight is greater than what the revenue is being generated off of the account.

Mr. EMMER. I am interested in the second one that you mentioned, which is they find an alternative—

Mr. OTTING. That is right.

Mr. EMMER. —that doesn't require those controls. Because, in fact, when you start doing this de-risking, the people that we are trying to discover are going to find other ways to deal with the cash they are trying to move. That is your experience?

Mr. OTTING. I would say more frequently they work it out with their existing financial institution, but there are exceptions where they will leave that financial institution and seek alternatives.

Mr. EMMER. How can we coordinate or improve the coordination between FinCEN, who is writing the BSA regulations, and the examiners like OCC, like yours, to streamline the regulatory landscape of our current BSA/AML structure to ultimately address issues like de-risking and improve the transparency of certain financial transactions?

Mr. OTTING. It is my number two priority behind CRA. And I will tell you, I have dedicated an enormous amount of time in the last 5-1/2 months to BSA. I think we are at the table now with the right issues identified. And I think with the working group we are creating with FinCEN, the FDIC, the Fed, and the National Credit Union Association, I think that we will move that dial over the next 3 to 6 months.

Mr. EMMER. Fantastic. Last, although I might have something that leads from this, in your opening remarks today, you mentioned exploring the expanded use of technology as a means to lessen the reporting burden and improve the efficiency of our BSA/AML efforts.

How do you see technological innovations like blockchain? And artificial—you have talked about artificial intelligence a little bit in your testimony today. And people have asked the question, but nobody has gone directly at it. Blockchain technology has some—appears to have major promise in terms of the transparency and the ability to track where things are going. And I am just wondering, how do you see a technological innovation like blockchain technology impacting this space?

Mr. OTTING. I agree with you, it does have promise. The question will be how we use it in applications going forward.

Mr. EMMER. This is—and I guess what I am going to ask, it is—there is an issue here in Congress, not enough people with election certificates understand what this is. They seem to be focused totally on cryptocurrencies every time they talk about this technology, and that is an issue. But blockchain is a lot more than cryptocurrencies, which is why folks in your position, the more that you are learning about it, the more that you are looking at the potential applications.

Have you done any of that yet or is this part of the group that you are getting together?

Mr. OTTING. It is not part of that initiative. We focused on 14 items that we thought could improve the efficiency of financial institutions complying with BSA and AML. We have not focused on blockchain. I, like most people, am learning more about this as it evolves. I had not even heard the word “blockchain” 6 months ago. And now, it is almost—

Mr. EMMER. Now it is the rage.

Mr. OTTING. That is right.

Mr. EMMER. I guess going forward, I would love to be in touch with you about the group that you put together for the BSA/AML effort. And then also, as you get up to speed on blockchain, how it might apply. Thank you very much.

I yield back.

Mr. HILL. The gentleman from Minnesota’s time has expired.

The gentleman from Georgia, Mr. Loudermilk, is recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman.

Thank you, Mr. Otting, for being here. As you and I have discussed before, one of my key issues is cybersecurity and the protection of data. And I appreciate my colleague from way up north bringing up the blockchain as we have discussed. I think it is imperative that we decouple the conversation of blockchain from cryptocurrency. And it is something that we need to investigate as a method of secure communications and data transactions.

But what I would like to focus on as far as cybersecurity goes, can you briefly explain what are you doing in the OCC and private sector to ensure that the data that, quite frankly, the government forces businesses and individuals to pass along and maintain, what are we doing to ensure the safety and security of that data?

Mr. OTTING. On an annual basis as part of our annual examination of financial institutions—and generally, these are the larger because we have some exemption for the smaller institutions, we actually, as part of that, do an examination of their data security and their technology. And there is a formulaic approach to that examination. I would be happy to have some of our people come over and walk you through that so you understand it.

But, for the most part, we are checking security parameters, we are checking hardware, we are checking their software, their patchwork. All of that activity goes into that final analysis. And then, if there are obvious actions that need to take place, mostly they would result in an MRA, where we would request certain actions associated with that institution.

Mr. LOUDERMILK. OK. And I appreciate that.

One of the issues that I think hurts us, ultimately hurts the American people, is we have a multiplicity of regulations regarding cybersecurity. There doesn't seem to be a consistency. Are we doing anything to actually coordinate with other banking agencies to ensure that we are operating from the same rule book basically?

Mr. OTTING. The Department of Treasury is coordinating amongst the agencies. In fact, I have a meeting this Friday afternoon. They have taken on a role to coordinate and lead amongst the agencies. We have been studying, analyzing, providing data, and trying to get some more consistency to the process within the agencies today.

So I would say, I have been here 5 or 6 months and I don't know if that was going on before I arrived, but I would tell you it is like full steam ahead at this point.

Mr. LOUDERMILK. Well, I appreciate that. And one thing to keep in mind as we move forward, and I would like to continue our engagement that we have already had with this issue, is one of the areas of weakness I see is how many points of data we have within the Federal Government. When you look at the PII of individuals, do we have that same information in various different agencies, which means the more instances you have of the same data, the more likelihood that it is going to be released? Is there something that we can do to centralize that to give common access to that?

If I could shift gears real quick in the time we have remaining and talk about the Bank Secrecy Act for a moment. I know I have been advocating that since, what, the 1970's is when we set the \$10,000 limit for the currency transaction report. And if we were to span that out over the course of time with the rate of inflation, it should be at about \$60,000 today, which is something I have been advocating for. But we do have legislation that brings it to that from \$10,000 to \$30,000.

Can you briefly explain why it is so important we modernize the BSA by increasing these thresholds?

Mr. OTTING. Well, the issue is we found 9 million currency transactions reports on an annual basis out of the U.S. banking system. Often, what we are finding is real legitimate businesses that banks have been doing business with for a long period of time, are tripping the currency structuring filters. And that structuring then causes us to produce paper that I think in the end really is unwarranted.

Mr. LOUDERMILK. More paperwork, red tape as the people know it, and little of it actually leads to—

Mr. OTTING. Right.

Mr. LOUDERMILK. —actually accomplishing the goal at hand. So are you comfortable—final, with the 30 seconds I have, do you think the threshold of \$30,000 will provide adequate relief of the overburdensome paperwork?

Mr. OTTING. I think it is a great step in the right direction.

Mr. LOUDERMILK. We could go a little further?

Mr. OTTING. I think that is a fair place to start.

Mr. LOUDERMILK. OK. All right. Thank you.

And I yield back the remainder of my time, Mr. Chairman.

Mr. HILL. The gentleman from Georgia yields back the balance of his time.

The gentleman from Tennessee, Mr. Kustoff, is recognized for 5 minutes.

Mr. KUSTOFF. Thank you, Mr. Chairman.

And thank you, Comptroller Otting, for being here this morning and this afternoon. If I could, I would like to follow up with some questions asked by Congressman Emmer as it relates to the BSA/AML reform. I agree with your testimony where you said that we need to reform the BSA/AML to be more efficient, while improving the ability of the Federal banking system and law enforcement to safeguard the Nation's financial system from criminals.

If you could, could you discuss some of the most burdensome components that banks face under the current BSA/AML structure?

Mr. OTTING. Yes, I think there are three I would say core things. It is the number of CTRs that need to be filed, which is around 9 million. It is the SARs which is about 1 million. And then today, the way we do examinations, we do not have a risk-based examination process; it is a one size fit all. And you may have missed it, but I said, if you have a management team that is highly rated with a very strong compliance department, a very strong BSA, and a low-risk customer base, we examine that entity the same as we have a weak management, a weak compliance, a weak BSA, and a high-risk. And we need to bring balance, because when these entities are showing we have good solid programs in place, to put them through all of those same activities, in my mind, is duplicative.

Mr. KUSTOFF. As it relates to the SARs, do you have a recommendation? If you could wave a magic wand, what that level would be?

Mr. OTTING. Well, on the currency transaction report or the SARs?

Mr. KUSTOFF. Let's talk about the SARs first.

Mr. OTTING. OK. So I think the question that we have with SARs is there is a million SARs being filed a year, and I think a lot of the SARs, we have gotten banks to the point where they are so nervous that they file a SARs on anything just to get—so no one ever can come back.

I think we need to be able to introduce some flexibility in there that we are not—if we are only looking at a very small percentage of the SARs, then having a high standard of 100 percent accuracy is difficult. So there are some estimates that 15 to 20 percent of all SARs being filed, which would be 200,000 SARs, are just being filed because people are saying I don't want the risk of the regulator coming in and saying I didn't fill the SARs out. And I just think we need to have a little bit more flexibility with financial institutions in that regard.

Mr. KUSTOFF. Thank you.

I know that there have been a fair number of questions today about the Community Reinvestment Act, and you have certainly testified about that. And I do appreciate and applaud your commitment to updating these policies.

When it comes to reforming CRA, can you address or describe some of those most pressing needs that you see in terms of reforming CRA?

Mr. OTTING. Yes. First of all, I want financial institutions to do more in the communities across America that need it. And I think in some regards, we haven't created the on-ramp for them to do that. And we have done that by not allowing certain products and services to be counted as CRA, and they just fundamentally should. That is number one.

Number two is I think we have to create a measurement system that, in my mind, allows us to look at financial institutions and be consistent across the size and complexity of the system of what is their commitment to the communities to which they operate.

And then the third is we have to be able to turn exams and processes around quicker. And if we can standardize the measurement process, then we can almost have perpetual observation. I believe in the future people will choose—just like they do entities that are green or do something specific, I think people will choose to bank with people that they think are investing in their communities.

Mr. KUSTOFF. Well, as it does relate to the exams, that is probably one of the biggest complaints that I hear from my financial institutions back in my district. What can you do to reduce the time that it takes to complete the examination or—

Mr. OTTING. I think if we can simplify the measurement method. And you may have been out of the room but, we are proposing a framework where you either take deposits tier one capital or total assets. And then you take all the CRA activities that someone is doing and you just divide that. So you have \$100 million in CRA activities, you have \$1 billion balance sheet, that says that you have 10 percent of that activity committed. And we can take a small community bank or a large JPMorgan and be able to make a determination. That, I could do in about an hour. Instead, we spend these 120 days doing the CRA exams that are very complex, very subjective, and are relative as opposed to absolute in their ability to define what a company is doing in CRA.

Mr. KUSTOFF. Thank you very much. And I yield back the balance of my time.

Chairman HENSARLING [presiding]. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Ms. Tenney.

Ms. TENNEY. Thank you, Mr. Chairman.

And thank you, Mr. Otting, for being here. We appreciate your work you are doing. And unfortunately, I get to be last, so many of my questions have been already asked. But I do want to just say a little bit about the Community Reinvestment Act to get into and finish up what my colleague, Mr. Kustoff, was talking about. And we do appreciate your looking at finding alternatives and moving banks more in the realm of investing in their communities and also focusing on, not just on the residential side, but on the community side.

Can you tell me just a couple of the issues where—enhancing what your answer was to Mr. Kustoff—where we can—as you know, we have national and community banks—but where we can focus some of those banks on reinvestment in our local communities, especially in my region where agriculture is our No. 1 industry and dealing with small business development? Because we ac-

tually have—almost 98 percent of our businesses in our district and our community are small, and how you would do that from your position as the Comptroller?

Mr. OTTING. Well, I think it is often making what people are doing in the community to be CRA qualified. And as you know, the CRA plan also extends itself into the agricultural community. So I think when you think about—I have used examples where churches are doing things for certain people that is not religious but it is community building. I think those should qualify. I think businesses that are above \$1 million in revenue, that today are blocked by being qualified, that we can make those available to CRA. So I think—and then there are a lot of activities that institutions do around financial literacy, that I think those should be included and counted as in the service test as well.

Ms. TENNEY. OK. Thank you.

And when it comes to the Bank Secrecy Act and the anti-money laundering act, I know one of the biggest complaints that I get, and you have talked about this a little bit, but if you could just enhance—we have a lot of small and community banks, and this is a burden, this compliance cost. They don't look—they look very small on the larger scheme of things, but when you are dealing with a small bank, you have suggested there are other ways that we can maybe pool these resources or come up with a solution to make it more affordable in terms of compliance.

Can you just elaborate on some of that that you might have mentioned?

Mr. OTTING. Yes. I think there are the short-term things that we can do to make it less burdensome without reducing our ability to catch the bad people, and that is probably what we are working on with the interagency group. And then I think long term, we have to think through the large banks have their own infrastructures and they can combine data pools with other banks. But most of the small banks use actually third-party servicers. And my thought is, is that third-party servicer can begin to look at ways that they can help banks look across a multitude of institutions to help them identify when there are bad people using a multitude of banks, and then alert those banks the reverse—alerting those banks that we see irregular activity amongst your customer base, as opposed to waiting for a CTR or a SARs to cause that to be identified.

Ms. TENNEY. That would be great. Now, in terms of determining what would be a SAR, do you agree or disagree—I am curious about your opinion on should we have arbitrary numbers that determine whether we are investigating or looking into suspicious activity reports? And what is your opinion on that? Should it be an arbitrary number or should we look at more, like, the activity, the other—the frequency—

Mr. OTTING. There is a floor on the SARs of \$5,000. There is not a floor for any employee-related activity, and we have talked within the agency about raising the floor. If a teller who takes \$200, should you really have to fill out a SARs for that? But above that floor, generally what we are asking people to do is if there is foreign money coming into an account, and if all of a sudden somebody opens up an account and money starts flowing in from one of the countries that we have concerns about; I am not sure when you

say there are good descriptors of what is expected to be high risk. People look at that and when you see those kind of activities, that is what justifies a SAR.

Ms. TENNEY. I am just thinking frequency. Sometimes they might be smaller dollar amounts and maybe suspicious in another realm, which, again, these are all compliance issues. But I appreciate your willingness to look in and help our smaller regional—and especially in New York where we have not too many New York banks left that are really able to function in this highly regulated space because we have a very aggressive regulatory regime coming out of the State.

But I appreciate your work in trying to help us and give us some relief on the Federal side, because we really are—as we see the economy getting a little more vibrant, we are definitely looking to our banks for more loans and lending and adding jobs. So we appreciate your hard work over there.

Mr. OTTING. Thank you very much.

Ms. TENNEY. Thank you so much. I yield my time.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from Arkansas, Mr. Hill.

Mr. HILL. I thank the Chairman.

As a former community banker for over 2-1/2 decades in my home State of Arkansas and also a former Treasury official in the ancient days of the Bush 41 Administration, I want to thank you for accepting this appointment and serving us as our Comptroller of the Currency. I want to commend you for your effectiveness in developing your budget and looking out for, not only the goals of the agency, but taxpayers, by actually proposing a reduction in how much money you are able to spend, yet carry out the mission of the OCC. And I want to commend you for the ideas you have on CRA reform and regulatory burden, generally, by tailoring regulatory burden. So thanks for being with us.

First thing I want to raise is, as you know, I am not a fan of the rule that has now been promulgated, the so-called CDD rule that is to enhance the disclosure of information on beneficial ownership. I think it still has a long way to go. I think I have made those views clear. I think it is going to be the most costly rule probably promulgated in the Trump Administration this year, potentially.

So one thing that I noted that was concerning that FinCEN issued some relief from was this idea of rollover CDs. So you come in the bank, you buy a CD, you fill out, Know Your Customer rule requirements, but then it is on a rolling basis every 6 months annually. FinCEN granted temporary relief from having to refill out and reascertain the beneficial ownership.

Would you support that being considered a permanent change in the rule or permanent waiver, if you will, to that on a rollover CD that was properly opened?

Mr. OTTING. It would seem to be prudent, especially if they did the documentation on the front end of that.

Mr. HILL. Right. My question assumes absolute appropriate documentation for the account. Thank you for that.

Something else that you and I have talked about, just putting our banker hats back on, philosophically, do you agree that banks,

when they set an interest rate for a credit, either a consumer credit or commercial credit, they are trying to price that credit for risk, the credit risk embedded in that transaction, you agree with that?

Mr. OTTING. I do.

Mr. HILL. And do you agree that local economic conditions are a factor, a parameter in which a bank loan committee or loan officers would take into account in order to set that pricing? You think that is—would that be generally true? In other words, local economic conditions are relevant to the pricing for risk for a loan?

Mr. OTTING. They do in the event that it would impair the source of repayment.

Mr. HILL. Right. Yes, I agree too. And yet I would really urge you, in your new role as our Comptroller of the Currency, to look at that in the context of consumer compliance laws on lending where I don't believe that pricing for risk is really permitted. And I am talking about geographic risk or a local industry risk on those sources, where the sources of repayment really could be compromised. I think there is a lot of demand by the regulatory agencies that you can only have one loan price, no matter how big the territory of the bank for a consumer loan. I would invite you to look at that.

On the Volcker proposal, we have also talked about that before, and you know my strong feelings about harmonizing the interpretation of the Volcker act. I was very pleased in 2155, enacted into law now, that we exempt our community banks from the vagaries and confusion and complexity and inconsistency of Volcker for our community banks. And I know you will be adjusting your Volcker Rule as it proceeds for that new law.

But when I read the Volcker 2.0 proposal summary section by section, I have to tell you, I found it more complex, less clear. In fact, it posed over 1,000 different court of inquiries for more information or questions, meaning that our regulators are just as confused as they were 8 years ago about trying to come up with a commonsense definition for Volcker. Things like the revised definition on the trading account. I didn't find that more clear. Covered funds, which was the whole point, really, if you go back to the legislative intent, it just seemed their proposed rule punted on that and basically said it is in the too-hard stack that people have and it couldn't be solved. And then their metrics and reporting and recordkeeping look more burdensome to institutions subjected to it.

So we don't have time to discuss it today. I know we will have a chance to talk about it, but I really urge you as you review these comments, I don't think you are on the right track.

And thank you, Mr. Chairman. I yield back.

Chairman HENSARLING. The gentleman yields back.

The Chair observes no other Members in the queue, thus we are prepared to release the witness.

I want to thank the witness for his testimony today.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without ob-

jection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

I would ask, Mr. Otting, that you please respond promptly as you are able.

Now this hearing stands adjourned.

[Whereupon, at 12:40 p.m., the committee was adjourned.]

A P P E N D I X

June 13, 2018

For Release Upon Delivery

10:00 a.m., June 13, 2018

TESTIMONY OF

JOSEPH M. OTTING

COMPTROLLER OF THE CURRENCY

before the

COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

June 13, 2018

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.

I. Introduction

Chairman Hensarling, Ranking Member Waters, and members of the Committee, thank you for the invitation to testify today. I am pleased to have the opportunity to share my priorities as Comptroller of the Currency and my views on what can be done to promote economic growth and opportunity by reducing unnecessary regulatory burden on national banks and federal savings associations, the institutions that the Office of the Comptroller of the Currency (OCC) supervises. I also intend to work diligently to ensure that the institutions within the federal banking system operate in a safe and sound manner, provide fair access to financial services, treat customers fairly, and comply with applicable laws and regulations. I am honored to serve as the 31st Comptroller of the Currency, alongside nearly 4,000 men and women who share a deep dedication to the agency's mission. During my tenure, I look forward to advancing financial institution regulation with a focus on promoting the long-term health of the institutions we supervise and improving their ability to serve their customers and meet their communities' needs. In my testimony today, I will share my views on the condition of the federal banking system, the risks facing that system, and my priorities as Comptroller of the Currency.

Before I turn to those topics, however, I want to congratulate Chairman Hensarling on his term as Chairman of this committee and thank him for his thoughtful leadership during the years that he has served in this role. Mr. Chairman, the nation will miss your voice and intellect, but I am confident we will continue to benefit from whatever the future holds for you. Through your statements over the past several years and in our personal discussions, it is clear that we share the view that the federal banking system is an engine for creating jobs and economic opportunity. Our nation's banks are a source of strength for the nation and vital to meeting the financial needs

of consumers and communities across the country, while it supports U.S. businesses and interests globally.

During this time of relative calm in the banking system, we have an important opportunity to review our approach to banking regulation and supervision. Under Chairman Hensarling's leadership, the committee's foundational work in passing H.R. 10, the Financial CHOICE Act, and other important legislation stimulated the dialogue that made possible the enactment of the Economic Growth, Regulatory Relief, and Consumer Protection Act, and significantly influenced its content. The "Economic Growth Act" reflects bipartisan, common sense changes that will make an important difference to community and midsize financial institutions and the customers who rely on them.

The Economic Growth Act contains a number of important, bipartisan provisions that will have a meaningful impact on OCC-regulated institutions. Those include provisions reducing the number of community banks and savings associations subject to the Volcker Rule; a simpler capital regime for highly capitalized community banks and savings associations; allowing qualifying banks under \$5 billion in assets to file a simplified call report; expanding eligibility for an 18-month exam cycle to well-managed and well-capitalized banks under \$3 billion in assets; exempting certain mortgage loans for properties located in rural areas from appraisal requirements; and adding greater financial protections for our military service members and veterans. The law also raises the thresholds for application of the Federal Reserve Board's enhanced prudential standards for bank holding companies to focus on the very largest companies, right-sizes stress testing requirements, and provides federal savings associations with less than \$20 billion in assets the flexibility to exercise the powers of national banks without

changing charters, an important improvement that reduced unnecessary regulatory burden as championed by Representatives Rothfus and Himes and suggested by the OCC.

The OCC will work closely and cooperatively with our fellow financial regulators to ensure that all of these important reforms are implemented quickly so that financial institutions can continue to create jobs and promote economic opportunity in a safe, sound, and fair manner.

II. Condition of the Federal Banking System

As of the end of the first quarter of this year, the federal banking system comprised approximately 1,325 national banks, federal savings associations and federal branches of foreign banks (banks) operating in the United States. These banks range in size from small community banks to the largest most globally active U.S. banks. Approximately 1,061 of these banks have less than \$1 billion in assets, while more than 60 have more than \$10 billion. Combined, these banks hold \$11.8 trillion or about 67 percent of all assets of U.S. commercial banks. These banks also manage almost \$51 trillion in assets held in custody or under fiduciary control, which amounts to 42 percent of all fiduciary and custodial assets in insured U.S. banks, savings associations, and national trust banks. The federal banking system holds two-thirds of credit card balances in the country, while holding or servicing almost half of all residential mortgages. Through their products and services, a majority of American families have one or more relationships with an OCC-regulated bank.

Because of the reach of the federal banking system and the essential role it plays in meeting the financial services needs of so many Americans, their businesses, and their communities, it is critical that the system operate in a safe and sound manner, provide fair access to financial services, treat customers fairly, and comply with laws and regulations. That is the unique mission of the OCC.

The OCC employs nearly 4,000 people, two-thirds of whom are bank examiners, overseeing the federal banking system. The majority of those examiners are dedicated to the daily supervision of community banks and work in offices and banks across the nation.

Supervision by Risk

The OCC applies a supervision by risk approach to the banks the agency supervises. Supervision by risk focuses on assessing risk, identifying existing and emerging issues, evaluating the effectiveness of a bank's risk management systems in appropriately controlling risk, and ensuring that bank management takes corrective action before problems compromise the safety and soundness of a bank. This approach requires an understanding of the operations of each bank or thrift and the systems each has in place to control risk, with consideration of the institution's size, scope of operations, complexity, and the risks presented by its business model.

Our supervision by risk framework establishes an examination philosophy and structure that is used at all national banks, federal savings association, federal branches of foreign banks, and national trust companies. This approach includes a common risk assessment system (RAS)¹ that evaluates each bank's risk profile across eight risk areas—credit, interest rate, liquidity, price, operational, compliance, strategic, and reputation—and assigns each bank an overall composite rating and component ratings on the bank's capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risks using the interagency Uniform Financial Institutions Ratings System (informally known as CAMELS).² Specific examination activities and supervisory strategies are tailored to each bank's risk profile. These strategies are

¹ See OCC Bulletin 2015-48, "Risk Assessment System" December 3, 2015 (<https://www.occ.gov/news-issuances/bulletins/2015/bulletin-2015-48.html>).

² See *Comptroller's Handbook*, "Bank Supervision Process" booklet, which explains UFIRS/CAMELS (<https://www.occ.gov/publications/publications-by-type/comptrollers-handbook/bank-supervision-process/pub-ch-bank-supervision-process.pdf>).

updated and approved annually. While tailored to each individual bank's risk profile, they also incorporate key agency supervisory priorities for the coming year.

To reflect the different expectations for controls and risk management between banks of varying sizes, operations, and complexity; our bank supervision programs and core examination procedures for determining a bank's RAS and CAMELS ratings are aligned across two primary lines of business: Midsize and Community Bank Supervision and Large Bank Supervision.

Our community bank supervision program is built around local field offices in more than 60 communities throughout the United States. Every community national bank is assigned to an examiner who monitors the bank's condition on an on-going basis and who serves as the focal point for communication with the bank. The primary responsibility for the supervision of individual community banks is delegated to a local Assistant Deputy Comptroller, who reports to a district Deputy Comptroller, who in turn, reports to the Senior Deputy Comptroller for Midsize and Community Bank Supervision. This structure allows community and midsize banks to benefit from assigned teams with thorough knowledge of local conditions and support from national resources with broad industry insight.

The frequency of on-site examinations for community banks follows the statutory provisions set forth in 12 USC 1820(d),³ with on-site exams occurring every 12 to 18 months. The scope of these examinations is set forth in the OCC's Community Bank Supervision handbook⁴ and requires sufficient examination work and transaction testing to complete the core assessment activities in that handbook, and to determine the bank's RAS and CAMELS ratings.

³ 12 USC § 1820(d) prescribes the annual examination requirement. As noted earlier, that provision has been amended by the Economic Growth Act to expand eligibility for an 18-month exam cycle to well-managed and well-capitalized banks under \$3 billion in assets.

⁴ "Community Bank Supervision" booklet of the *Comptroller's Handbook*, October 2017 (<https://www.occ.gov/publications/publications-by-type/comptrollers-handbook/community-bank-supervision/index-ch-community-bank-supervision.html>).

On-site activities are supplemented by off-site monitoring and quarterly analyses and discussions to determine if significant changes have occurred in the bank's condition or activities.

The OCC's Large Bank Supervision program is centralized and headquartered in Washington, D.C. It is structured to promote consistent uniform coordination across institutions. As part of the Large Bank program, the OCC assigns examination staff who are resident on-site at the institution and who conduct on-going supervisory activities and targeted examinations in specific areas of focus. This process allows the OCC to maintain an on-going program of risk assessment, monitoring, and communication with bank management and directors. Given the volume and complexity of the literally millions of transactions that flow through large banking organizations each day, it is not feasible to review every transaction in each bank, or for that matter, every single product line or bank activity in each supervisory cycle. Nonetheless, the scope and frequency of the OCC's targeted examinations and our constant, day-to-day supervision ensure that examiners complete sufficient work and transaction testing throughout the year to complete the core assessment activities set forth in the OCC's Large Bank Supervision handbook,⁵ and to determine the bank's RAS and CAMELS ratings. The on-site teams at each bank are led by an Examiner-in-Charge, who reports directly to the Deputy Comptrollers in our Large Bank Supervision Office, and in turn, to our Senior Deputy Comptroller for Large Bank Supervision. On-site examiners are supported by specialized examiners in the OCC's lead expert program and the Compliance and Community Affairs unit which provides a horizontal view across the industry, a focus on particular risks, and can quickly share insight from that broader perspective.

⁵ "Large Bank Supervision" booklet of the *Comptroller's Handbook*. October 2017 (<https://www.occ.gov/publications/publications-by-type/comptrollers-handbook/large-bank-supervision/pub-ch-large-bank-supervision.pdf>).

Supporting OCC examination staff is a nationwide network of lawyers, economists, accountants, compliance, and administrative and policy experts who together make the OCC the world's preeminent prudential supervisor. This network of experts brings a broad national perspective to complement the deep local expertise of the assigned exam teams.

The quality of that supervision contributes to the strong condition of the federal banking system today. The system has rebounded from the crisis. Capital and liquidity are near historic highs. Bankers understand the risks facing their banks better than at any point in my 35-year banking career. Return on equity and asset quality are approaching pre-crisis levels. Bank profitability improved in 2017 when compared with 2016 on a pre-tax basis. OCC-supervised banks reported healthy revenue growth in 2017 compared with 2016. Net income was flat for banks with total assets less than \$1 billion and declined 8.5 percent for the federal banking system because of the effect of the Tax Cuts and Jobs Act. Pre-tax income rose 4 percent in 2017 for the federal banking system and more than 7 percent for banks with assets less than \$1 billion. That improvement continued into the first half of this year, and the economic environment is expected to continue to support loan growth and bank profitability through 2019.

III. Risks Facing the Federal Banking System

Despite the relative strength of the banking system and health of the economy, the regulators' job is to peer over the horizon and assess any gathering storm clouds. The OCC publishes its view of risks facing the banking system twice each year in its *Semiannual Risk Perspective*.⁶ Our objective is to provide transparency around trends and potential risks so that the industry takes these risks into account and adjusts their practices accordingly. The most

⁶ See *Semiannual Risk Perspective*, Spring 2018 (<https://www.occ.gov/publications/publications-by-type/other-publications-reports/index-semiannual-risk-perspective.html>).

recent edition of the report, published on May 24, primarily focuses on credit, interest rate, operational, and compliance risks.

Credit Risk

At this point in a long economic expansion, asset quality metrics are, as is typical, very good, and changes in risk appetite and external factors are the primary drivers of credit risk and future performance. While overall credit quality remains strong, bankers must remain vigilant about the potential effects of competition and undue complacency on the quality of new loans and credit risk management. Recent reviews of underwriting indicate that satisfactory policies and practices exist to guide lending decisions and that, thus far in this economic cycle, banks as a whole are operating within established risk tolerances. Competition for quality loans remains strong, however, and examiners note evidence of cased underwriting, increased commercial real estate concentration limits, and a higher level of concerns related to policy exceptions. The accommodating credit environment warrants a continued focus on underwriting practices to monitor and assess credit risk and prevent lender complacency.

Overall lending grew 3.6 percent within the federal banking system in 2017. That growth continues the positive trend of the last several years, albeit somewhat slower in 2016 and 2017 than in previous years. Commercial loan growth for large banks, which hold more than 83 percent of all loans, fell to 4.2 percent, down from the 10-percent level two years ago. Although loan growth has slowed, growth rates still represent a healthy economy. Midsize and community banks continued to experience significant loan growth, particularly in commercial real estate and other commercial lending, which grew almost 9 percent last year. Such growth heightens the need for strong credit risk management and effective management of concentration risk.

Interest Rate Risk

At the same time, rising interest rates also pose a number of potential risks for some banks. Although rising interest rates generally increase net interest margins at small banks, bank investment portfolios with concentrations of long-duration and low, fixed-rate assets could erode in value as interest rates rise, particularly if they increase more abruptly than expected. Rising interest rates also likely will increase the cost of deposits because of competitive pressures particularly for banks with total assets of \$250 billion or more that are subject to additional regulatory liquidity requirements.⁷ Banks should be modeling these potential risks as part of sound balance sheet management.

Credit risk is also likely to increase as interest rates rise. Rising interest rates will often increase debt service costs and may affect credit affordability as well as repayment capacity of some financially stretched customers.

Operational Risk

Operational risk remains elevated as banks adapt business models to the evolving banking environment, transform technology and operating processes, and respond to increasing cybersecurity threats. The speed and sophistication of cybersecurity threats show no signs of abating. Banks face constant threats from bad actors seeking to exploit personnel, processes, and technology. Some of these threats target large quantities of personally identifiable information and proprietary intellectual property to facilitate fraud and misappropriation of funds at the retail and wholesale levels. Other threats are aimed at disrupting or otherwise impairing operations. Failure to maintain proper controls over cybersecurity can lead to material negative effects on

⁷ See OCC Bulletin 2014-51 (<https://www.occ.gov/news-issuances/bulletins/2014/bulletin-2014-51.html>), which describes the Liquidity Coverage Ratio final rule and provides a link to that rule.

financial institutions, consumers, and national and economic security. Banks also continue to rely on third-party relationships to support a significant number of key services and operations because of the greater economies of scale and advanced technical resources that allow them to manage operations better and more efficiently. Banks need to manage risks associated with using third parties⁸ through appropriate due diligence and risk oversight to ensure controls protecting the confidentiality, integrity, and availability of systems and data are maintained. Increasing consolidation among large technology service providers has created third-party concentration risk, in which a limited number of providers service large segments of the banking industry for key financial services. Operational events at these larger service providers could affect large parts of the financial industry, if not properly managed by the service providers and the banks that rely on their services. The OCC and the other federal banking agencies continue to prioritize supervisory activities related to these large service providers.

Cybersecurity and operational issues have a greater potential to affect individual consumers, business, and communities than ever before. As innovation and technology moves us toward greater interconnectedness and reliance on online transactions, outages and breaches generate greater disruption in how we conduct our lives and businesses. Extended outages of bank websites and applications, automated teller networks, or payments systems can paralyze commerce and undermine overall confidence in our system. To avoid these consequences, banks, retailers, nonbank service providers, and regulators must be vigilant in working together to protect the system and improve its resiliency.

⁸ See OCC Bulletin 2013-29, "Third-Party Relationships" (<https://www.occ.gov/news-issuances/bulletins/2013/bulletin-2013-29.html>).

Compliance Risk

Compliance risk remains elevated as banks manage risks in an increasingly complex environment and work to comply with evolving regulations.

The dynamic nature of money-laundering and terrorist-financing methods present challenges for banks to comply with the Bank Secrecy Act (BSA) requirements. Banks offer new or evolving delivery channels that increase customer convenience and access to financial products and services, and they must maintain a focus on refining or updating BSA compliance programs to address vulnerabilities in these new delivery channels that criminals seek to exploit. At the same time, recent changes to the regulatory framework implementing the BSA increase the burden of complying with the law. One example involves the Financial Crimes Enforcement Network's (FinCEN) new requirements for conducting customer due diligence and documenting the beneficial ownership of companies conducting financial transactions. While these new requirements enhance the transparency and confidence of financial transactions, they place significant new burden on financial institutions.

Other complex and constantly changing regulations also strain bank compliance management systems and change management processes, which increases operational, compliance, and reputation risks. Recent regulatory changes in the consumer compliance area include changes in the requirements under the Home Mortgage Disclosure Act and Military Lending Act, and implementation of the integrated mortgage disclosures under the Truth in Lending Act and the Real Estate Settlement Procedures Act. Banks need consumer compliance risk management and audit functions sufficient to promote ongoing compliance with regulations, even those that change on a frequent basis.

IV. My Priorities as Comptroller of the Currency

As Comptroller, my short-term priorities have focused on initiatives to help banks promote job creation and economic opportunity while continuing to operate in a safe, sound, and fair manner. These priorities include modernizing the regulatory approach to the Community Reinvestment Act (CRA), encouraging banks to meet consumers' short-term, small-dollar credit needs, enhancing our supervision of BSA/anti-money laundering (AML) compliance and making it more efficient, simplifying regulatory capital requirements, and reducing burden associated with the Volcker Rule. At the same time, we continue to enhance the agency's effectiveness and efficiency.

Modernizing Our Approach to the CRA

During the four decades since the CRA became law, the regulatory approach to implementing that law has become too complex, outdated, cumbersome, and subjective. We have an opportunity to modernize the regulatory framework around CRA to better serve its original purpose and encourage more investment and banking activity supporting the people and communities needing it most.

As a banker for more than 30 years, I saw firsthand the benefit of CRA activities and how they make communities more vibrant. I believe in the power of community reinvestment to reinvigorate financially distressed areas and to give residents of those neighborhoods new hope and new economic opportunities. I have been involved in directing hundreds of millions of dollars in community development, reinvestment, and support for groups that provide important services to their communities, and I want to expand the types of activities eligible for CRA consideration to include more small business lending and community development activities and strengthen the CRA regulatory framework to benefit future generations.

Stakeholders from all perspectives have called for modernizing the current regulatory framework for the CRA. Members from both sides of the aisle have described their frustration with some of the CRA regulatory framework's current limitations. Many have complained of significant administrative burden, lack of incentives for investment, and failure to adapt to advances in banking such as interstate branching and digitization of services. Others have complained about the limited opportunity for bank activities to qualify for CRA consideration. Bankers and community groups alike criticize the length of time between the issuance of CRA performance evaluations, the unwieldy length of performance evaluation reports, and the lack of transparency, clarity, and flexibility with respect to regulatory requirements and processes. The complaints I hear most frequently are that the current approach to evaluating CRA performance is too subjective and costly.

To begin the process of modernizing the CRA, the federal banking agencies are discussing an Advanced Notice of Proposed Rulemaking (ANPR) soliciting comments from stakeholders on how best to modernize the CRA regulatory framework. We have an opportunity to consider a transformational CRA framework that would: (1) expand and provide clarity regarding the bank activities that receive CRA consideration; (2) revisit the concept of assessment areas; and (3) increase the transparency of how bank CRA performance is measured by using quantitative standards that are applied consistently.

First, we should expand the types of activities that qualify for CRA consideration. Over the years, opportunities for CRA consideration have focused heavily on single- and multi-family residential lending. While necessary for a vibrant community, residential lending is not the only activity that can have a meaningful impact in these communities. Communities also need more small business lending, student lending, economic development opportunities, and in some cases,

additional opportunities for consumers to access credit including responsible, short-term, small-dollar consumer loans. These activities deserve more consideration during CRA evaluations. We have the opportunity to encourage banks to help neighborhoods become communities where families can make a living and not just reside.

Second, we need to revisit the concept of assessment areas. Limiting assessment areas to a bank's branch-based footprint has become an impediment to investment and providing capital in areas of need that the bank may serve. I have seen situations where projects have not received CRA consideration merely because they were on the wrong side of a street. I have also seen needy communities go unserved or have much needed resources delayed because of a lack of clarity in current regulations. In reconsidering assessment areas, we need to broaden our thinking to include all areas where institutions provide their services rather than only narrow geographies defined by branches and deposit-taking automated tellers.

Third, we need to develop a metrics-driven approach to evaluating CRA performance using clear thresholds. Such changes could make facts and data regarding a bank's CRA activity more transparent and available to the public more frequently. Establishing clearer, more transparent metrics for what banks need to do to achieve a certain CRA rating would allow stakeholders to understand how a bank is working to meet the credit needs of its community, provide a more objective base for examiner ratings, and allow regulators to report on aggregate activity to show a bank's overall performance. Clear thresholds would minimize subjectivity, encourage consistency, and promote transparency in contrast with today's evaluations that may rate similar activities differently from bank to bank and make comparisons across institutions difficult and less meaningful. This type of change would also help regulators to make decisions

that rely on CRA data more quickly and to produce more concise and meaningful performance evaluations.

The ANPR will solicit comments on all possible approaches to modernizing CRA, including modest changes to the existing CRA framework and more transformational changes. It also will seek feedback on allowing community banks to retain a more traditional approach based on their business models.

Once published, I encourage all stakeholders to provide their thoughts on how to improve our approach to the CRA regulatory framework to better encourage banks to meet the credit needs of their communities, including those in low- and moderate-income neighborhoods, consistent with the safe and sound operation of these institutions. I recognize that there are many people and organizations with decades of experience in this important field. I look forward to publishing the ANPR and reviewing the comments received as we move ahead.

Encouraging Banks to Meet Consumer's Short-term, Small-dollar Credit Needs

Millions of Americans rely upon short-term, small-dollar credit to make ends meet, but have few choices in this area. According to one study, U.S. consumers borrow nearly \$90 billion every year in short-term, small-dollar loans typically ranging from \$300 to \$5,000.⁹ Consumers need safe, affordable choices, and banks should be part of that solution. While banks may not be able to serve all of this market, they can reach a significant portion of it and bring additional options and more competition to the marketplace while delivering safe, fair, and less expensive credit products that support the long-term financial health of their customers.

⁹ Refer to Center for Financial Services Innovation, "2017 Financially Underserved Market Size Study," pp. 44–47, for revenue and volume data on pawn loans, online payday loans, storefront payday loans, installment loans, title loans, and marketplace personal loans.

That is why the OCC clarified its position in a bulletin published on May 23, 2018, that encourages banks to offer responsible short-term, small-dollar installment loans to help meet the credit needs of their customers.¹⁰

Banks are well suited to offer affordable short-term, small-dollar installment lending options that can help consumers find a path to more mainstream financial services without trapping them in cycles of debt. When banks offer products with reasonable pricing and repayment structures, consumers can benefit from banks' other financial services such as financial education and the opportunity to build a positive credit record.

Banks should consider the following three core principles when offering short-term, small-dollar lending products.¹¹

- All bank products should be consistent with safe and sound banking, treat customers fairly, and comply with applicable laws and regulations.
- Banks should effectively manage the risks associated with the products they offer, including credit, operational, compliance, and reputation.
- All credit products should be underwritten based on reasonable policies and practices, including guidelines governing the amounts borrowed, frequency of borrowing, and repayment requirements.

The agency's bulletin also highlighted reasonable policies and practices specific to short-term, small-dollar installment lending, including:

¹⁰ See OCC Bulletin 2018-14, "Installment Lending: Core Lending Principles for Short-Term, Small-Dollar Installment Lending" (<https://www.occ.gov/news-issuances/bulletins/2018/bulletin-2018-14.html>).

¹¹ Refer to OCC NR 2017-118.

- Loans and terms that align with eligibility and underwriting criteria. Products should be designed to achieve reasonable borrower affordability and repayment.
- Loan pricing that complies with applicable state laws and reflects overall returns reasonably related to product risks and costs. The OCC views unfavorably an entity that partners with a bank with the sole goal of evading a lower interest rate established under the law of the entity's licensing state(s).
- Analysis that uses internal and external data sources, including deposit activity, to assess a consumer's creditworthiness and to effectively manage credit risk. Such analysis could facilitate sound underwriting for credit offered to consumers with an ability to repay but who do not meet traditional standards.
- Marketing and customer disclosures that comply with consumer protection laws and regulations and provide information in a transparent, accurate, and customer-friendly manner.
- Loan servicing processes that assist customers, including distressed borrowers. To avoid continuous cycles of debt and costs disproportionate to the amounts borrowed, timely and reasonable workout strategies should be used.
- Timely reporting of a borrower's repayment activities to credit bureaus. Borrowers should have the ability to demonstrate positive credit behavior, build credit history or rebuild credit scores, and transition into additional mainstream financial products.

The Pew Charitable Trusts praised the OCC's action when announced by saying the action encourages "the other federal bank and credit union regulators to follow the Comptroller's lead and institute the necessary standards to ensure the development of safe and affordable small installment loans that will save millions of borrowers billions of dollars a year." The OCC also is

working with Congress to encourage the banking sector to offer additional short-term, small-dollar lending products to meet consumer needs. I want to commend Representative Hollingsworth for his legislation to support efforts by the banking regulators in this area.

Enhancing BSA/AML Compliance

The BSA and AML laws and regulations exist to protect our financial system from criminals who would exploit that system for their own illegal purposes and from use of that system to finance international terrorism. Bank regulators, law enforcement, national security personnel, and bankers must continually adapt to increasingly sophisticated criminals and other illicit actors who take advantage of the nation's banks and financial system. While regulators and the industry share a commitment to fighting money laundering and other illegal activities, the process for complying with current BSA/AML laws and regulations has become inefficient and costly. Banks spend billions each year to comply with BSA/AML requirements. We need to reform the BSA/AML to be more efficient while improving the ability of the federal banking system and law enforcement to safeguard the nation's financial system from criminals and terrorists.

In May, the federal banking regulators met to discuss ideas on how to improve our approach to implementing BSA/AML laws and regulations and presented those recommendations to the Department of the Treasury and FinCEN.

There are several improvements that the OCC believes could be addressed through regulation and others that would need legislative relief. Opportunities include:

- Allowing regulators to schedule and scope BSA/AML examinations on a risk-basis and identifying ways to conduct associated examinations in a more efficient manner.

- Considering changes to the threshold requiring mandatory reporting of Suspicious Activity Reports (SARs) and currency transaction reports and simplifying reporting forms and requirements.
- Working with law enforcement to provide feedback to banks so that they understand how SARs and other BSA report filings are used and can provide the most useful information.
- Exploring the use of technologies to reduce reporting burden and provide more effective access and information to law enforcement and national security personnel.

I look forward to working with my fellow banking regulators, Treasury, FinCEN, law enforcement, and national security personnel in the coming months to identify changes we can implement to reduce the burden of complying with BSA/AML laws while also improving how we protect our financial system

I also look forward to working with Members of Congress who are interested in improving the BSA/AML laws. I am supportive of many of the provisions included in draft legislation authored by Subcommittee Chairman Luetkemeyer and Representative Pearce that, among other things, would change reporting thresholds and provide additional authority for industry participants to enhance their vigilance by sharing information about certain unlawful activities in addition to possible terrorist or money laundering activities.

Simplifying Regulatory Capital and the Volcker Rule

Following the financial crisis, bankers, regulators, and policy makers responded by appropriately focusing on improving the quality and quantity of capital and liquidity in the banking system. As a result, today's financial institutions have capital and liquidity near historic highs. At the same time, calculating regulatory capital has become too complex. Even some of

the most seasoned bankers need the assistance of a capital expert to understand and explain how the various categories of capital are counted. This results in regulatory and business inefficiency and places an unnecessary burden particularly on well-capitalized community and midsize banks.

In late October 2017, federal bank regulators proposed a rule intended to reduce burden by simplifying several requirements in the agencies' regulatory capital rule.¹² Most aspects of the proposed rule would apply only to banking organizations that are not subject to the "advanced approaches" in the capital rule, which are generally firms with less than \$250 billion in total consolidated assets and less than \$10 billion in total foreign exposures. The proposal would simplify and clarify a number of the more complex aspects of the existing capital rule. The federal banking agencies received a number of comments on various aspects of the proposal and are working together to consider what changes to the proposal would be appropriate in light of the different ideas and suggestions provided in the comments. Additionally, one area of the proposal—the treatment of acquisition, development, and construction loans—has been superseded by the Economic Growth Act. As we move forward with our efforts to simplify and clarify our regulatory capital requirements, the agencies will, of course, make any changes necessary to conform our capital rules to the new law.

In April of this year, the OCC and the Board of Governors of the Federal Reserve System proposed a rule that would further tailor leverage ratio requirements to the business activities and risk profiles of the largest domestic firms.¹³ Currently, firms that are required to comply with the "enhanced supplementary leverage ratio" are subject to a fixed leverage standard, regardless of their systemic footprint. The proposal would instead tie the standard to the risk-based capital

¹² 82 Fed. Reg. 49984 (October 27, 2017).

¹³ 83 Fed. Reg. 17317 (April 19, 2018)

surcharge of the firm, which is based on the firm's individual characteristics. The resulting leverage standard would be more closely tailored to each firm. Importantly, the Economic Growth Act includes a provision (section 402) that requires the agencies to make changes to the calculation of the supplementary leverage ratio for banking organizations engaged in custody, safekeeping, and asset servicing activities. As we move forward with the changes required by the new law, we will need to consider whether the proposed recalibration of the enhanced supplementary leverage ratio remains appropriate, or whether additional fine tuning will be necessary.

I also look forward to working with fellow regulators to update regulations to implement additional relief authorized in the Economic Growth Act. Among those provisions are section 201 which allows banks that exceed a "community bank leverage ratio" (tangible equity to average total consolidated assets of 8 percent to 10 percent) to be deemed to be in compliance with current leverage and risk-based capital provisions. This will greatly reduce regulatory burden for well-capitalized, qualifying institutions.

Similarly, the agencies have been working to simplify the Volcker Rule¹⁴ to ease associated burden, particularly for those community and midsize banks that do not pose systemic risk to the nation's financial system and typically do not engage in the type of activities that the statute was intended to address. I also applaud the changes made by the Economic Growth Act to reduce the number of banks subject to the Volcker Rule and want to thank the many members of this committee who have long supported this reasonable exemption.

¹⁴ 12 USC 1851; 12 CFR 44.

For those entities that remain subject to the rule, the OCC is committed to adding clarity and reducing unnecessary burden, as appropriate. In August 2017, the OCC sought public comment about what should be done to improve the current regulation implementing the Volcker Rule¹⁵ and specifically invited input on ways to tailor the rule's requirements and clarify key provisions that define prohibited and permissible activities. The agency also sought input on how the federal regulatory agencies could implement the existing rule more effectively without revising the regulation. The OCC has used comments to inform its dialogue with other federal regulatory agencies.

The OCC has worked collaboratively with the other federal regulatory agencies responsible for the Volcker Rule to develop a proposed rule that would clarify and streamline the current regulation. These proposed changes focus on reducing the subjectivity, and associated uncertainty, of the current rule. A key objective is to provide clear lines that enable firms to quickly and easily determine whether activities are subject to the rule. In this regard, the proposal seeks to eliminate the test that looks to the subjective intent of a transaction for purposes of determining whether it is proprietary trading and to focus on objective factors. For example, a trading desk that operates within a prescribed profit and loss threshold would be presumed to be operating in compliance with the rule unless the appropriate agency determines otherwise.

In addition, the proposed rule focuses on appropriate burden reduction by seeking to calibrate the regulation to the type and level of risk presented. For example, a bank with only moderate trading activities would be eligible for streamlined versions of the market-making and hedging exemptions relative to a bank that has significant trading activities. For banks with the

¹⁵ 82 Fed. Reg. 36692 (August 7, 2017).

most limited trading activities, there would not be any ongoing obligation to demonstrate compliance, although the rule's substantive restrictions on proprietary trading and covered funds activities would still apply. We believe these changes will reduce burden, particularly for smaller and midsize banks that remain subject to the Volcker Rule following the recent statutory amendment. We believe these changes will also improve the agencies' implementation of the Volcker Rule by allowing regulators to focus on the activities that were at the core of the statutory prohibitions.

Each of the five agencies involved in writing the rules implementing the Volcker Rule has adopted the proposal, and I look forward to working with my fellow regulators to finalize changes to the Volcker Rule later this year.

Agency Effectiveness and Efficiency

Ensuring that the OCC operates as effectively and efficiently as possible allows the agency to succeed in its mission, to be a responsible steward of every assessment dollar collected, and to maintain a professional and inspiring workplace for the men and women who contribute to the economic security of our nation by supervising its banks.

Since I arrived at the OCC, we have greatly improved the agency's decision-making processes. Over the years, the OCC had developed a centralized and bureaucratic approach to decision making that required multiple officials and many layers of review to approve examiner guidance, internal policies, and public issuances. We have three months of data that tell us that the change is paying dividends. The average total time for executive managers to review documents and agency decisions is now less than eight days, down from an average of nearly 22 in calendar year 2017. The revised process also pushes decision making down to appropriate

staff. Under the revised process, for example, the Comptroller's approval has been required on 54 percent of the documents issued by the agency, compared with 97 percent of documents reviewed at the agency in 2017. This more efficient approval and coordination process reduces waste and allows more resources to be committed to executing decisions rather than coordinating their approval. We continue to look for opportunities to make that process even more efficient and reduce the time even further.

The agency has also focused on reducing its costs through gaining efficiencies and making better use of technology. When I arrived at the OCC, I was greeted with 18-inches of three-ring binders for briefings the next day. Executives would arrive to meetings with their binders and coordination packages would be copied and bound for each of them. Today, we have significantly reduced paper received by my office and coordinate all materials electronically. Executives largely rely on electronic communication, and staff share information and document decisions online. Moving to an online-only system has saved an incalculable amount of paper and time—time spent under the old process assembling and delivering paper packages for each reviewer. Now, because comments are now provided electronically, we have eliminated the need to copy and scan comments by reviewers, decipher handwritten notes, and track down the commenter when follow-up is required. Recordkeeping is accomplished more quickly because all the documents are electronic and easily saved to the initiating office's system of records.

The agency is also mindful of our responsibility to get the most out of every dollar assessed to the institutions we supervise and is working to reduce costs wherever it makes sense. At the beginning of fiscal year 2018, the OCC supervised 1,347 institutions and had authorized 3,945 full-time employees. After I became Comptroller, OCC management conducted a thorough budgetary review and identified efficiencies to fulfill our mission and lower our expected

expenses by reducing the number of additional personnel we planned to hire during the year, prioritizing our work, completing that work more efficiently, and taking a closer look at actual versus planned spending for personnel travel and contracts. That effort reduced the amount we planned to spend in fiscal year 2018 by nearly \$70 million, or about 5 percent of our expected costs.

As the agency looks ahead to fiscal year 2019, we will think even more critically and creatively about what we need to do our jobs successfully and reduce our anticipated costs further. There are many ways to save money and operate more efficiently and effectively, and currently none of them involve a reduction-in-force through layoffs or buyouts. As the agency plans its spending for fiscal year 2019 and beyond, we will seek to optimize our real estate strategy by shrinking our physical footprint and taking advantage of technology to reduce our costs. Our revised spending plan for the remainder of fiscal year 2018 and the budgets I authorize in the future will continue to provide the resources necessary for the agency to succeed in its mission and to provide employees an engaging and fulfilling work experience. The agency will continue to invest in training and career development while providing a professional, supportive workplace so that the agency can attract and retain the experience and talent it needs.

V. Conclusion

Thank you for the opportunity to provide my views on the condition of the federal banking system, risks facing that system, and my priorities as Comptroller. I look forward to working with members of this committee, my fellow regulators, and the seasoned team at the OCC to address these important issues facing our nation's banks and to further strengthen the federal banking system.

I again congratulate the Chairman on the effectiveness of his leadership and I thank the committee for your important and formative work resulting in the package of bipartisan, common sense relief for community and midsize banks that was passed into law last month.

House Committee on Financial Services:
“Financial Industry Regulation: the Office of the Comptroller of the Currency”
Questions for the Record
June 13, 2018

Representative Joyce Beatty

Since assuming your role as Comptroller of the Currency, you have sought several changes to supervision and policy regulations within the Office of the Comptroller of the Currency (OCC). In your testimony before this Committee you have made it clear that the OCC, in collaboration with the Federal Reserve and the Federal Deposit Insurance Corporation, will seek public comment on changes to the Community Reinvestment Act. Additionally, your agency has already issued a bulletin to “remind banks of the core lending principles for prudently managing the risks associated with offering short-term, small-dollar installment lending programs (OCC Bulletin 2018-14). Both of these issue areas that your agency has sought or is actively seeking to alter has a significant effect on minority communities. Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, specifically section 342(b)(3), requires each Director of the Office of Minority and Women Inclusion (OMWI) to advise the agency administrator on the impact of the policies and regulations of the agency on minority-owned and women-owned businesses.

Q.1. Pursuant to this section, have you met with the OCC’s OMWI Director? If so, how often do you meet?

Response - I meet with Joyce Cofield, the OCC’s Director of the Office of Minority and Women Inclusion (OMWI), frequently, and as needed. The OMWI Director is a senior management official at the OCC who I routinely consult as she provides valuable input. She frequently participates in a variety of meetings related to OCC policy development. In addition, she and I regularly attend diversity meetings and events together.

Q.2. Have you met with, or received input from, the OCC’s OMWI Director in preparation of publicizing your joint proposal to modernize the Community Reinvestment Act? If so, what was the nature of those conversations? If not, do you plan to meet with your Director before you release your joint proposal?

Response - The OMWI Director is not involved with the OCC’s efforts to modernize the Community Reinvestment Act regulatory framework. The primary scope of OMWI’s responsibilities is set forth in section 342 of the Dodd-Frank Act, which provides that OMWI is responsible for all agency matters related to diversity in management, employment, and business activities, such as (but not limited to) supplier diversity contracting, recruitment, hiring and development of our diverse workforce, and outreach matters. However, the OCC has a diverse staff of banking and community affairs experts in CRA-related issues and with whom I regularly consult on efforts to modernize the CRA regulatory framework.

Q.3. Have you met with, or received input from, the OCC’s OMWI Director prior to issuing Bulletin 2018-14? If so, what was the nature of those conversations? If not, please provide a legal justification for non-compliance with this legally-mandated requirement?

Response - The OMWI Director was not involved with the issuance of OCC Bulletin 2018-14, Core Lending Principles for Short-Term, Small-Dollar Installment Lending (May, 23, 2018). The subject matter of the bulletin is outside of the scope of OMWI's responsibilities as set forth in section 342 of the Dodd-Frank Act, which provides that the OMWI is responsible for all agency matters related to diversity in management, employment, and business activities. However, the OCC has a diverse pool of banking and community affairs experts with whom I regularly consulted prior to the issuance of the bulletin.

Q.4. Have you met with, or received input from, the OCC's OMWI Director regarding any changes in policy you have made since assuming your role? If so, please list those topics of discussion and a short explanation of those conversations? If not, please provide a legal justification for non-compliance with this legally-mandated requirement?

Response - The OMWI Director has provided input on a range of OCC policy changes related to diversity in management, employment, and business activities. These include:

- Establishment of a summer intern program, to begin in the summer 2019 to broaden our outreach to high school students in the Washington, D.C. area in an effort to expose them to work life in the financial services sector.
- Enhancing the agency's anti-harassment policy by clarifying the multiple agency resources available to support the resolution of conflicts when they occur in our workplace.
- Additional focus on our hiring process to ensure full consideration of the need of the position and available internal candidates and the diversity of applicant pools and the final selection.
- Reviewing the OCC's statistics on inclusion.
- Participation on the hiring panels for Senior Executives.
- Outreach to financial institutions.
- Consulted on Federal Employee Viewpoint Survey results and action plans.

In your testimony before the Committee and in response to questions posed by Chairman Hensarling regarding the 2016 OCC's horizontal review of more than 40 large banks for potential unauthorized account openings you stated that the OCC "did not find pervasive or systemic issues with regard to improper account openings." However, you did state that there were close to 20,000 accounts identified as potentially being opened without authorization.

Q.1. For those accounts that the OCC identified as potentially opened without authorization, can you assure Congress that each and every instance will be followed up on by OCC examiners and will ensure that each and every customer of those banks who may have had an unauthorized account opened up in their name are made whole?

Response - The OCC is monitoring banks' corrective action through the normal course of supervision, which for large and most midsize banks is a continuous process. While timelines vary based on the findings of particular banks, failure to correct identified deficiencies in a timely and effective manner may result in additional supervisory action, including public enforcement actions if warranted.

Where unauthorized account opening or other inappropriate sales practices were identified, banks had already taken, or were in process of taking, remedial action. This could include closing the account, refunding or reversing any inappropriate fees or other customer charges, or correcting credit bureau information. In most cases, remediation has been completed.

Q.2. Who conducted the review of the accounts examined during this horizontal review, OCC examiners or the banks themselves?

Response - The horizontal review of sales practices was an interagency effort that involved examiners from the OCC, the Bureau of Consumer Financial Protection, the Federal Reserve, and the Federal Deposit Insurance Corporation. Individual accounts were reviewed by banks and the process and reviews were overseen and tested by federal examiners.

Q.3. Did the OCC rely on any self-reviews or self-certifications by the banks as part of this horizontal review? If yes, please explain.

Response - A majority of banks included in the review conducted self-assessments of account practices, which federal examiners assessed and used to inform their work. While examiners considered the self-assessments in setting the scope of work, the OCC reached independent conclusions as to the adequacy of policies, procedures, and controls that were in place.

Q.4. As you know, Wells Fargo has continually increased the number of unauthorized account openings they have found in their branches during their review process. Do you believe that the OCC's horizontal review was thorough enough to assure the American people that no bank is engaging in similar practices on a systemic level?

Response - The interagency horizontal review concluded that there was no evidence of systemic issues related to the unauthorized opening of accounts. The review also resulted in matters requiring attention issued to strengthen bank-specific controls, procedures, and policies related customer accounts.

Q.5. In the aftermath of the Wells Fargo scandal, are OCC examiners more vigilantly examining banks for similar conduct when they conduct their examinations?

Response - The thorough horizontal review of sales practices of large and midsize banks and savings associations that the OCC conducted has resulted in a heightened awareness and understanding for our examiners about the need for a bank to have an enterprise-wide, holistic governance program over account opening, account closing, account management, employee complaints, and employee fraud or misconduct to prevent the potential for consumer harm.

Representative Randy Hultgren

When you testified before the Committee, you committed to working with Congress and other banking regulators to consider unintended consequences of how the risk-based and leveraged-based capital rules interact with the mandatory clearing mandate for derivatives in Title VII of Dodd-Frank. The Treasury Department's October 2017 Report on Capital Markets notes, "The CEM may be responsible for a corresponding reduction in banks' ability and willingness to facilitate access for their market maker clients who are the primary liquidity providers in these markets." Since your testimony, the House Committee on Financial Services unanimously reported legislation, The Options Markets Stability Act (HR 5749), which requires the banking regulators to undertake rulemaking to provide a capital offset and provide a report to Congress about their findings.

Q.1 - Have you discussed this issue with your counterparts the Federal Reserve Board and the Federal Deposit Insurance Corporation? Do you plan to solicit feedback, formally or informally, regarding this issue from the Securities and Exchange Commission and the Commodity Futures Trading Commission?

Response - We are working closely with the other federal bank regulatory agencies to improve the risk sensitivity of our regulatory capital standards related to derivatives and counterparty credit risk. We expect to issue proposals covering these topics shortly. The proposals will be consistent with the goals of H.R. 5749 in that they will seek to improve our existing capital standards for options and other derivatives. As with all proposed rules, we will consider feedback from all interested parties carefully before moving forward with final standards.

Q.2 - Given that the banking regulators have the authority to address these issues with the risk-based and leveraged-based capital rules; do you plan to pursue rulemaking without a change in statute?

Response - We plan to pursue the aforementioned rulemaking without any change in statute and under existing regulatory authority.

Thank you for your work to reconsider aspects of Section 619 of the Dodd-Frank Act, the so-called Volcker Rule. One specific topic I would like to raise with you is the Volcker Rule's detrimental impact to venture capital funds and the start-up companies that they support. Before the Volcker Rule, banks provided 7 percent of the dollars invested in venture capital funds and were a reliable source of funding for smaller venture capital funds that are not as attractive to large institutional investors. As you are probably aware, this change is recommended by the Treasury Department's October 2017 report on Capital Markets. I would ask that you and your colleagues at the other financial regulators prioritize this when considering changes to the Volcker Rule. Furthermore, a colloquy between Senator Boxer and Chairman Dodd during the consideration of Dodd-Frank demonstrates that this was not the intent of Congress.

Q.1. Do you believe that "venture capital funds" should fall within the definition of "private equity funds"?

Response - Section 619 of the Dodd-Frank Act defines hedge fund and private equity fund as an issuer that would be an investment company, as defined in the Investment Company Act of 1940, but for section 3(c)(1) or 3(c)(7) of that Act, or such similar funds as the relevant agencies by rule determine. The current regulation includes the same definition referencing sections 3(c)(1) and 3(c)(7) of the

Investment Company Act of 1940. Consistent with the statute, the current regulation provides a number of exclusions from this “covered fund” definition. The notice of proposed rulemaking (NPR) issued by the OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Securities and Exchange Commission and Commodity Futures Trading Commission (the Agencies) solicits comments on whether the Agencies should provide new exclusions in order to more effectively tailor the covered fund definition. The Agencies specifically requested comment on whether to exclude funds that lack certain characteristics of hedge funds and private equity funds, among other types of issuers. The Agencies welcome specific examples from commenters on the types of activities that have been limited by the regulatory covered fund definition.

Q.2. Has the OCC studied how a change to the “covered funds” prohibition that exempts “venture capital” would permit for more investment in start-up companies and overall economic growth?

Response - The OCC has not conducted such a study, but the NPR includes a broad request for comment on the scope and impact of the existing covered fund definition. Even absent the Volcker Rule, national banks are generally restricted in their ability to provide equity financing, subject to certain limited exceptions. National banks may not generally acquire equity investments in venture capital funds unless the fund qualifies as a small business investment company (SBIC) or public welfare investment fund. Both SBICs and public welfare investment funds are currently excluded from the Volcker Rule covered fund definition. Other “banking entities” subject to the Volcker Rule may have additional authorities to provide equity financing to portfolio companies and fund structures such as venture capital funds.

You have made a number of public remarks since taking office about the need to streamline the Volcker Rule so as to reduce regulatory burden on banks of all sizes. In the spirit of reducing burden while remaining faithful to the statute, I encourage you to seek changes to address certain unintended consequences of the overly broad implementation of certain aspects of the rule by the federal financial agencies, including the OCC.

One such area concerns the Volcker Rule’s definition of “covered funds.” In addition to prohibiting banks from sponsoring hedge funds that engage in short-term proprietary trading with bank customers’ insured deposits, which was the over-arching goal of this part of the Dodd Frank statute, the federal agencies implemented the Volcker Rule in a way that restricts banks from lending through certain fund vehicles even though they may engage in such activity directly on their balance sheets. An example of this is when banks pool client money in so-called “credit funds” to collectively invest in loans and other credits, or otherwise engage in permissible financing activities. It seems antithetical to the statutory intent that the agencies would restrict such financing activity which is vitally needed to support continued economic growth.

Implementation of the Volcker Rule also inadvertently ensnared a number of other long-standing banking activities where a special purpose vehicle is organized for a single client or a single group of affiliated clients and created solely to facilitate a particular client-initiated transaction. These transactions, similar to the credit transactions noted above, are transactions that banks may engage in directly on their balance sheets, but utilize a vehicle based on the client’s preference to face a separate vehicle due to legal, counterparty risk management, and accounting reasons.

I am also concerned about another situation involving foreign public funds that are similar to U.S. mutual funds but nonetheless are prohibited by the Volcker Rule’s implementing regulations. Rather

than providing parity for foreign registered funds, the rule imposes a number of onerous criteria that are often difficult to verify.

As I understand how Dodd Frank's Volcker Rule was implemented, a fund is considered "covered" if it avails itself of exemptions provided by 3(c)1 or 3(c)7 of the Investment Company Act but the regulators have statutory authority to exclude certain funds and have done so since first issuing regulations, due to the Investment Company Act provisions covering a far broader range of funds than intended by the Dodd-Frank Act. Previous exclusions have included foreign public funds, certain securitization vehicles, wholly owned subsidiaries, and joint ventures. I would recommend that you look into the particular situations I cited involving credit and other funds where it seems that there were unintended consequences by the regulators' overly broad implementation of certain aspects of the Volcker Rule.

Q.1. Can these changes be made in the final proposal using the existing authority of the federal financial regulators?

Response - As reflected in the NPR's robust request for comment on the covered funds provisions, the Agencies are exploring whether there is opportunity to permit a broader range of activities and investments consistent with section 13 of the Bank Holding Company Act. As you note, the current regulation provides, consistent with the statute, a number of exclusions from the covered fund definition that may be relevant to the activities you describe, including for foreign public funds, loan securitizations, and small business investment companies, among others. The regulation also permits, consistent with the statute, certain additional covered fund activities, such as organizing and offering, underwriting, and market making with respect to a covered fund.

Q.2. If so, do you plan to pursue these changes as part of the interagency rulemaking?

Response - The NPR specifically requests comments on whether to exclude funds that lack certain characteristics of hedge funds and private equity funds, among other types of issuers. The NPR also includes a robust request for comment on the exclusion for foreign public funds and how it may be further tailored. I look forward to continuing to work with my counterparts at the other Agencies and reviewing the comments received on the proposed changes to the Volcker Rule.

Representative McHenry

As you are aware, on May 23, 2018, the Office of the Comptroller of the Currency issued a Bulletin which encouraged national banks to offer short-term, small dollar installment loans to consumers. In the Bulletin, the OCC states that the OCC “views unfavorably an entity that partners with a bank with the sole goal of evading a lower interest rate established under the law of the entity’s licensing state(s).” That statement has been misconstrued by commentators and used in ongoing litigation to attack the partnership between banks and fintech lenders. See, e.g., *Colorado v. Avant*, 2017CV30377, “Administrator’s Supplemental Authority Regarding Motion to Dismiss” at 2 (May 31, 2018); *Colorado v. Marlette Funding LLC*, 2017CV30376, “Administrator’s Supplemental Authority Regarding Motion to Dismiss” at 2 (May 31, 2018)).

The OCC has well established authority on how banks may exercise their authority to engage in the business of banking – by making loans, taking deposits (or otherwise raising capital and debt), and working with service providers to engage in a wide range of permissible activities. Nevertheless, the Bulletin appears to have caused some confusion about whether there are situations where a bank makes a loan and that loan is deemed not a bank loan, perhaps because the bank chooses to sell the loan – even though selling loans is a predominate practice in the mortgage industry and other credit markets.

Accordingly, my question to the OCC is as follows:

Q.1. Is it your view that, regardless of whether a regulated bank works with a service provider or ultimately sells a loan, if the bank (1) determines to make a given loan to a consumer or a business consistent with safe and sound banking principles, (2) uses its funds to make a loan, and disburses the loan proceeds, and (3) is subject in that process, along with the other activities of the bank, including the bank’s credit policy and underwriting criteria, to the general supervision and on-going oversight of its banking regulators, that such loan is a validly made bank loan, enforceable in accordance with its terms, including interest rate of the bank’s home state or the state where the loan is made?

Response - The National Bank Act expressly authorizes national banks to carry out the business of banking. This includes the power to sell loan contracts. Under the long-established “valid-when-made” rule, if the interest-rate term in a bank’s original loan agreement was non-usurious, the loan does not become usurious upon assignment, and so the assignee may lawfully charge interest at the original rate.