REGULATORY REFORM: EXAMINING HOW NEW REGULATIONS ARE IMPACTING FINANCIAL INSTITUTIONS, SMALL BUSINESSES, AND CONSUMERS IN ILLINOIS

FIELD HEARING

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REGULATORY REFORM: EXAMINING HOW NEW REGULATIONS ARE IMPACTING FINANCIAL INSTITUTIONS, SMALL BUSINESSES, AND CONSUMERS IN ILLINOIS

Monday, December 5, 2011

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

The committee met, pursuant to notice, at 9 a.m., in Chicago, Illinois, Hon. Spencer Bachus [chairman of the committee] presiding.

Members present: Representatives Bachus, Manzullo, Biggert, Dold, and Schweikert.

Also present: Representatives Kinzinger and Walsh.

Chairman BACHUS. This hearing will come to order.

The Financial Services Committee is meeting in Chicago this morning to take testimony concerning the bank regulations and their effect on financial institutions.

I would like to thank Mrs. Biggert, the chairman of the Subcommittee on Insurance, Housing and Community Opportunity, for organizing this hearing. She has been a tireless advocate of financial literacy, a dedicated public servant who I think looks after the people of Illinois very well, and she always seems to have the health of our Nation's financial system foremost on her mind, particularly those in the banking community.

Mrs. Biggert, would you like to say anything at this time?

Mrs. BIGGERT. I have an opening statement.

Chairman BACHUS. I will let Mrs. Biggert give her opening statement, and you don't need me to give one.

Mrs. BIGGERT. I'm sure they would rather hear from you, Mr. Chairman, but I'll be glad to do that. I'm sure you'll have some more.

Chairman BACHUS. I don't want to depress them. I know the banks are having tremendous problems with the volume of regulations. As you know, Dodd-Frank was the biggest change in our regulatory law since the 1933 and 1934 Acts, and, in fact, Dodd-Frank has more rules and more pages than all of those Acts put together, of all the Acts during the Hoover and Roosevelt Administrations.

To compare it with Sarbanes-Oxley, Sarbanes-Oxley is about 330 pages and 16 rules; Dodd-Frank is over 400 rules. And Sarbanes-Oxley took 3 years before the Congress, and over 60 hearings. Dodd-Frank was put together in about 4 months. A third of it was written in the last 3 days, so to say it was a rush job would be kind.

The regulators are about 28 percent through with Dodd-Frank, and already the regulations would fill two bankers' boxes, and that's even with small print.

And I know the costs of compliance, the costs to comply with Dodd-Frank continue to go up with every new regulation or every recalculation, and it could take as much as with compliance, the cost it could cause the cost of compliance to go up another 50 percent from where it was prior to its passage. I don't need to tell these bankers that.

We're going to take testimony on what we need to do, what needs to be done to address the problems.

Mrs. BIGGERT. Thank you, Mr. Chairman. I knew that we could get an opening statement out of you. Thank you. And I want to thank you for holding this hearing, and I want to especially thank you for choosing this wonderful City of Chicago for such an important hearing.

Illinois is home to some of the finest financial institutions in the country, and I know that these institutions stand ready, willing, and able to provide the crucial funding that our communities and small businesses so desperately need.

As I meet with small business leaders in my district, I constantly hear that they are ready to help our economy get going again but are unable to access the capital they need to grow in their businesses. And at the same time, I hear from our community bankers that they are ready to extend credit to these small businesses, and have the capital to do so, but they are being stymied by overzealous and inconsistent regulators.

Lenders large and small are paralyzed by hundreds of unattainable and inconsistent financial regulations, chiefly those included in the far-reaching Dodd-Frank Act. And unfortunately, our jobs created by access to capital have become a casualty as bankers are left scrambling to figure out how to play by the new rules.

We cannot expect even the most healthy and well-capitalized institutions to make loans if they are unable to determine when regulators might ban certain products, or randomly require them to post additional capital or arbitrarily change the treatment of a performing loan. Too many bankers are already disproportionately affected by new regulations due to their limited resources, and now is absolutely the wrong time to invoke and impose new burdensome compliance clauses on institutions that could better use their resources to provide services and extend credit to their customers.

If we stand any chance for a broad-based economic recovery, we must get the government out of the way and allow our financial institutions to resume responsible lending.

I thank the witnesses for being here today. It's great to see the friendly faces of a hometown crowd, and I again thank the chairman for holding this hearing.

Chairman BACHUS. Thank you.

I am now going to recognize Mr. Manzullo. Don Manzullo is a senior member of the committee from Illinois. There are a lot of good friends here.

Mr. MANZULLO. I'm here ready to receive definitive impact statements. We have people from QSA, Rosemont, Springfield, Chatham, and all kinds of places. It's good to have you here.

Welcome to Illinois, Mr. Chairman.

Chairman BACHUS. Thank you.

Our next two members—there were 81 freshmen, and 61 of those freshmen requested the Financial Services Committee. We only had seven slots, and these two gentlemen to my right: Bob Dold who is your Illinois Congressman, in the Chicago area, the beautiful City; and Dave Schweikert from Scottsdale, Arizona. Dave was treasurer of Maricopa County in a prior life, and he has a financial background.

Bob?

Mr. DOLD. Mr. Chairman, thank you so much for holding this hearing. It is certainly great to be here in Chicago talking to those who provide access to capital for small businesses.

Coming from the private sector, certainly we understand that it is the lifeblood of small businesses to have access to capital, and I have had the opportunity to spend some time with many of you here who are testifying before the committee today, and I certainly understand some of the issues and the burdens that you face.

And this, I believe, is a particularly important hearing because the function of a healthy credit market is absolutely essential for job creation. The number one issue we face today, I think, in the country is, how do we create sufficient jobs and put our economy back on track, which is critical for economic growth and prosperity.

Certainty, our credit markets and financial institutions must be regulated, but those regulations must be sensible, they must be balanced, and they must account for meaningful differences amongst our broad and diverse array of financial institutions.

I don't believe we can have a one-size-fits-all type of regulation that comes down for all the financial institutions that we have in front of us today.

Unfortunately, in that respect, our regulatory environment doesn't currently meet these reasonable standards. Instead, our current regulatory environment is needlessly hurting the functionality and health of our credit markets, and by extension, hurting our job creators' business growth and ultimately economic prosperity.

The regulatory burden is particularly acute for our small financial institutions which indisputably had little, if anything, to do with the financial crisis. And that's because they must necessarily devote a large percentage of their resources to the enormous cost of reviewing and analyzing and complying with an avalanche of regulatory burdens.

I don't know about many of you; I did have an opportunity to talk with a smaller financial institution just the other day that said, "We are hiring," which was positive. We like to hear people are hiring, but they were hiring all in compliance, taking a lot of heads on in compliance.

So they're trying to cross the "T"s and dot the "I"s and comply with the rules and regulations that Washington is putting in place, but not a single one of them was adding to—bringing on people who were going to help the bank, who were going to help lend additional resources out to small businesses that are out there.

So I believe small businesses or small financial institutions are essential to financing our small businesses which are responsible for most of the job growth. Two-thirds of all entry-level jobs are created by small businesses, so across our country, we're going to rely on smaller financial institutions that I believe have a much greater understanding of who they're lending to in terms of, you see them in your grocery store, you see them at church or synagogue or some other place along those lines.

So with our current economic challenges, all of us in Congress are obligated to create a legal regulatory environment that strongly promotes job creation, business growth, and economic prosperity. And a very important step in creating that kind of regulatory environment is understanding clearly what our small financial institutions are dealing with and helping them get some relief from overly burdensome regulations.

Again, I want to emphasize that we do need regulations; we just want them to be smart regulations.

I just came from a meeting with somebody who gets regulated pretty heavily, and he actually used the dresser analogy. Every single one of us has a dresser at home. We buy clothes. Eventually, when we can't close the dresser drawer, we have to figure out what clothes we want to get rid of and which ones we want to keep in our drawer.

The same thing is true with regulations, I would say. If they're good regulations, we need to keep them. Just more and more of them, we need to have a different approach.

So I certainly appreciate each and every one of you taking the time to be with us today. We certainly look forward to your testimony.

Mr. Chairman, thank you so much for coming to Chicago to hold an important hearing. It's important that we hear from some of our local financial institutions. Thank you so much for your time.

Chairman BACHUS. Thank you, Bob.

At this time, I recognize Dave Schweikert, a member of our committee, and one of our new freshman.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

Actually, for Illinois, you should be very proud. You have a lot of oomph on the Financial Services Committee when Chairwoman Biggert and the constituents come to a field hearing here.

It will be also be noted that you're going to have a little sales tax spike, because my wife and I came in on Saturday and hopefully left a nice contribution to the City of Chicago.

Mr. DOLD. We appreciate that.

Mr. SCHWEIKERT. There's great value to this type of get-together hearing. What we're hunting for is often some of the sort of detail that we don't get in D.C., where often it is somewhat scripted.

We're also looking for what are the unintended consequences that have put you in juxtapositions from previous regulations to new authorships to also certain concerns as rules are being promulgated, what do you think sneaks up on your business model and therefore ultimately hurts your community and our country.

So as you share your testimony with us, please let us know your anticipation of what is damaging, but also, if you also have an insight into mistakes in the designs of the regulations that are creating any undue consequences that we haven't heard in all of this, we'll do our best.

Thank you, Mr. Chairman.

Chairman BACHUS. Thank you.

We're also joined by two other members of the Illinois delegation, and I will ask now for the consent of the committee that without objection, we will allow them to participate in the hearing.

Not hearing any objection, the two Members from Illinois are Joe Walsh and Adam Kinzinger.

I used to call "Aaron Schock" "Adam Schock", and then Adam Kinzinger showed up. At least I think by now, I have started calling Aaron "Aaron" and Adam "Adam."

But we welcome both of you, and this is the normal custom that when we are in a State, Members whose jurisdiction touches on banking also participate in the hearing, and their opinions do affect certain aspects of that, and so we invite an opening statement from you gentlemen.

Mr. KINZINGER. Mr. Chairman, I'll keep it very brief.

I'm Adam Kinzinger from North Central Illinois, and I currently sit on the Energy and Commerce Committee, and I'm a freshman. And I want to say thank you for coming to Chicago. As we mentioned, Representative Schweikert, thank you for coming all the way from Arizona to listen.

And I think this is what's very important is just the idea that, look, we can go to Washington, D.C., and we can talk about laws and we can talk about bills and all that kind of stuff, but you really don't know how it impacts people until you hear from people so I just want to say thank you for coming out.

I have been spending the last number of months listening to folks in the financial industry like Mr. Roolf from Joliet as well as Kevin Olson from Grundy Bank who I see here and many others, and I look forward to hearing what you have to say or what you have to say today.

And the big key is we want to understand that there is a role for the government in the economy, but what is that role, and we definitely don't want to have too much of a role.

So again, we look forward to your testimony. And I want to say thank you, Mr. Chairman.

Chairman BACHUS. Thank you.

At this time, we will hear from our witnesses.

Oh, I'm sorry. Joe?

Mr. WALSH. No, no, Mr. Chairman, that's fine. I'll be even briefer.

Chairman BACHUS. I'm sorry.

Mr. WALSH. That's okay.

Thank you and thank you for coming into Chicago.

I chair a subcommittee—the Small Business Committee's Economic Growth, Tax, and Capital Access Subcommittee—and we held a hearing earlier this year on this very topic, so this is a rife topic.

It's good to see some of the familiar faces. We are choking right now underneath regulation so I am quite interested to hear from our witnesses.

Thanks, Mr. Chairman.

Chairman BACHUS. Thank you.

Our witnesses are Mr. Greg Ohlendorf, president and chief executive officer from First Community Bank and Trust, testifying on behalf of the Independent Community Bankers of America. We are considering legislation now that the ICBA and American Bankers proposed. We're beginning to have hearings on those and expect to move something. We appreciate your organization.

Mr. William Bates, executive vice president and general counsel of Seaway Bank and Trust on behalf of the National Bankers Association. It is good to see you, Mr. Bates.

Mr. Jim Roolf, chairman of the Illinois Banking Association—I have mixed emotions about sitting in here with him. When I was at Alabama and he was at Notre Dame, they beat us twice. It was a long time ago, and he has his Notre Dame tie on so he can egg me on. Two Sugar Bowl victories, but anyway, Jim, it is great to see you again.

And Mr. Jim Renn, president and chief executive officer of the Lisle Savings Bank, is that "Lisle?"

Mr. RENN. "Lisle," that's correct.

Chairman BACHUS. He is testifying on behalf of the Illinois League of Financial Institutions.

Mr. John Schmitt, president and chief executive officer of the Naperville Area Chamber of Commerce. Ms. Dory Rand, president of the Woodstock Institute. And Mr. Bob Palmer, policy Director of Housing Action Illinois.

And we'll just go from left to right and take your testimony. Normally, the statements are 5 minutes. Did they tell you all that? But if you go over a minute or two, we're usually not going to be—at a field hearing, since we're not even in Washington, we're not going to be that strict.

We'll start with you, Mr. Ohlendorf.

And we welcome each and every one of you to testify about regulatory reform, and examining how new regulations are impacting financial institutions, small businesses, and consumers in Illinois.

One thing about small businesses—Joe mentioned that he chairs the subcommittee. In the last 2 months, our net job growth has all come from small businesses. Small business, in this recession, has created 70 percent of the jobs. So the health of small businesses is important to not only small businesses but large businesses, communities, families, and the Nation's economy.

Mr. Ohlendorf?

STATEMENT OF GREGORY M. OHLENDORF, PRESIDENT AND CHIEF EXECUTIVE OFFICER, FIRST COMMUNITY BANK AND TRUST, ON BEHALF OF THE INDEPENDENT COMMUNITY BANKERS OF AMERICA (ICBA)

Mr. OHLENDORF. Chairman Bachus and members of the committee, I am Gregory Ohlendorf, president and CEO of First Community Bank and Trust, a $150 million asset community bank located in Beecher, Illinois, Congressman Kinzinger's district.

I am pleased to be here today to represent the nearly 5,000 members of the Independent Community Bankers of America, and I thank you for coming to Chicago to hold this hearing. We appreciate your interest in the impact that new regulations have had on financial institutions, including community banks.

Community banks are the primary source of credit, depository, and other financial services in thousands of rural areas, small towns, and suburbs across the Nation. As such, we play an essential role in the recovery of our national economy.

Regulatory and paperwork requirements impose a disproportionate burden on community banks which do not have the scale of larger banks to amortize the expense of compliance.

I will focus my remarks today on the Dodd-Frank Act, the predominant but not exclusive source of new bank regulation.

This Act was generational legislation and will permanently alter the landscape for financial services. It's a mixed outcome for community banks, providing both punitive and helpful provisions. Every part of financial services, including every single community bank, will feel the effects of this new law.

The community bank business model is based on the strength of our reputation in the small communities we serve and the long-term customer relationships that we cultivate.

Community banks don't engage in abusive consumer practices and did not cause the financial crisis, and we appreciate the support our industry received to shield us from some of the provisions designed to respond to this crisis.

Regulation calibrated to large-bank risks and business models can suffocate smaller banks, curtail the possibility that we need to offer customized products and services, which is how we compete against the larger banks, and thereby harm the communities that we serve.

We reject the notion that regulation must fall equally on all banks. That is based on the false premise that a community bank is just like a mega-bank but on a little smaller scale. We differ not only in size but in our fundamental orientation toward customers and communities.

ICBA has persistently advocated for tiered regulation of the financial service industry.

Among some of the provisions of the Dodd-Frank Act, the new Consumer Financial Protection Bureau (CFPB) perhaps carries the most risk for community banks. We are already required to spend significant resources complying with consumer protection rules. Every hour I spend in compliance is an hour that could be spent with a small business owner or a consumer. CFPB rules should not contribute to this distraction. The CFPB should use its authority to grant broad relief to community banks where appropriate.

ICBA also strongly supports legislation passed by this committee and the House, H.R. 1315, to reform the CFPB and make it more balanced and accountable in its governance and its rule-writing.

Another concern of Dodd-Frank is the new mortgage lending requirements that run the very serious risk of accelerating industry consolidation, which would create even more systemic risk as well as higher costs and fewer choices for consumers, particularly in small communities.

Statistically, the Risk Retention Requirement Section 941, if broadly applied, will disadvantage community banks because they lack access to the increased capital needed to offset risk retention despite their conservative underwriting. Similarly, enhanced escrow requirements for high-cost loans will create a significant cost for community banks.

We recommend that community banks' loans held in portfolio be exempt from this requirement. Lenders have every incentive to protect the collateral of loans held in their own portfolios.

In representing our members during consideration of Dodd-Frank, ICBA focused on making the Act workable for community banks. This meant seeking exemptions where appropriate. It also meant seizing the opportunity to advocate for long-sought community bank priorities that we believe will strengthen community banks over the long term.

ICBA was a leading advocate for the deposit insurance provisions of the Act, including the change in the assessment base from domestic deposits to assets (minus tangible equity) which will better align premiums with a depository's true risk to the financial system, and will save community banks $4.5 billion over the next 3 years.

The Act also contains provisions that would help rein in the too-big-to-fail banks and the Wall Street firms that imperilled our economy, including the creation of the Financial Stability Oversight Council (FSOC) for banks over $50 billion and systemically risky nonbanks.

My community banker colleagues and I were galled and profoundly angered when we read last week's Bloomberg Report on the Federal Reserve's secret $7.77 trillion bailout. Borrowing at a cost as low as one basis point, the largest, riskiest firms turned a profit of some $13 billion. There must be no repeating of these events.

In closing, I would like to note that the legislative ideas highlighted in my written testimony are included in the Communities First Act or CFA, H.R. 1697, which has 61 bill sponsors: 40 Republicans; and 21 Democrats. CFA also has the strong support of 37 State banking associations.

In addition to proposed changes to Dodd-Frank, CFA includes other regulatory and tax relief provisions for community banks.

Thank you again for the opportunity to testify today. Legislation of the breadth and ambition of Dodd-Frank will generally need modification.

We look forward to working with this committee to improve the law and to assure that it is implemented in a way that will impose the least burden on community banks.

Thank you.

[The prepared statement of Mr. Ohlendorf can be found on page 51 of the appendix.]

Chairman BACHUS. Thank you for your testimony.

Mr. Bates?

STATEMENT OF WILLIAM BATES, JR., EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, SEAWAY BANK AND TRUST COMPANY, ON BEHALF OF THE NATIONAL BANKERS ASSOCIATION

Mr. BATES. Good morning, Chairman Bachus, and members of the committee.

My name is William Bates, Junior. I am the executive vice president and general counsel of Seaway Bank and Trust Company in Chicago, Illinois. We are a $621 million commercial bank with 11 offices and 315 employees. We are a member of the Illinois Bankers Association. We serve the Chicago area, and we also have a branch in Milwaukee, Wisconsin.

Thank you for convening this important hearing in Illinois. I appreciate the opportunity to present my views about the current regulatory environment on behalf of the National Bankers Association.

Our members include banks owned by African Americans, Native Americans, Hispanic Americans, Asian Americans, and women located in 21 States, including Illinois and the District of Columbia.

Our member banks, with a few exceptions, serve distressed communities plagued by many social and economic problems. Our institutions are deeply committed to providing employment opportunities, entrepreneurial capital, and economic revitalization in neighborhoods which often have little or no access to financial services, however, all of the costs, complexities, and time associated with monitoring, managing, and complying with the current regulatory landscape are handicapping most banks' ability to do what they do best: Serve customers, our local communities, and many local organizations which rely on banks for help.

Each new rule puts an additional strain on our staffs, and for many community banks, it is becoming a nearly insurmountable burden.

When you add to this the more than two dozen proposals established under Dodd-Frank for a whole new class of regulation mostly to be issued by yet another regulator combined with the uncertainty and legal risks, it is plain to see how difficult it can be to achieve the right balance between satisfying loan demands and regulatory demands.

At Seaway, we have seen a significant increase in costs in order to meet regulatory compliance demands over the last several years. We currently have three people who spend all of their time on the Bank Secrecy Act, anti-money laundering, and overall regulatory compliance, and at least three more individuals who spend up to 25 percent of their time on regulatory compliance, not to mention the individuals throughout the bank who serve on our Compliance Committee.

The expenditures that our bank has incurred for regulatory compliance take away from the resources that can be directly applied to serving the bank's community. Each new regulation or change in an existing one adds another layer of complexity and cost of doing business.

Without quick and bold action to relieve some of the regulatory burden, there will be a contraction of the banking industry with banks disappearing from communities over the next few years.

Each bank that disappears from the community makes that community poorer.

What can Congress do? We urge you and other Members of Congress to make sure that our regulators are measuring the cumulative effect of all of the rules, current and future, with which traditional banks must comply.

It is critical that the perceived benefits of each rule be weighed against this ultimate cost to a bank's customers, including the cost that it adds to a particular product or service as well as its impact on the availability of and access to those products and services.

In addition, because bank regulators have expertise in balancing the safety and soundness of banking operations with the need to protect customers, we hope that our primary regulators will have a more meaningful role in writing rules for the Consumer Financial Protection Bureau.

Members of the National Bankers Association, along with the entire banking industry, are working to do their best to provide the necessary financial services and credit to the thousands of consumers and small businesses who need it, and we are working exhaustively with those businesses who are struggling in our communities, however, we need Congress' help. We want to work with you and our Members of Congress to restore the economic viability of our local communities.

Again, thank you for the opportunity to hear our views about the current regulatory compliance environment and its impact on Illinois and our communities. Thank you.

[The prepared statement of Mr. Bates can be found on page 44 of the appendix.]

Chairman BACHUS. Thank you.

We have heard about a lot of rules and that the benefits are certainly outweighed by the cost to especially bank customers, and we will continue to focus on that.

Also, you mentioned your ability to customize products for your customers. That's obviously very important and something that we also are concerned with, that these will restrict your ability to meet their needs in a way that best suits them.

Now, we will hear from Mr. Jim Roolf, chairman of the Illinois Bankers Association.

STATEMENT OF JAMES M. ROOLF, CHAIRMAN, ILLINOIS BANKERS ASSOCIATION (IBA)

Mr. ROOLF. Thank you, Chairman Bachus, members of the committee, and other members of the Illinois delegation.

My name is Jim Roolf, and I am president of First Midwest Bank, Joliet Banking Center, which is part of an $8.4 billion banking organization headquartered in Itasca, Illinois.

It's my privilege to be here this morning as chairman of the Illinois Bankers Association, an organization that represents 325 banks and savings institutions of all sizes across our State.

I would like to start by thanking you for holding this very important and historic meeting in Illinois on the subject of regulatory burden and for giving me the opportunity to present the views of the IBA concerning the considerable challenges that our members, banks of all sizes, are facing.

The banking industry is indispensable, and the health and the strength of it and the economic strength of our communities are closely interwoven.

Illinois is home to more banks and savings institutions than any State in the Nation. There are 636 FDIC-insured banks and thrifts—584 are headquartered in Illinois, and they represent $341 billion in assets and $276 billion in deposits.

It's a well-known fact that when a bank establishes its roots in a local community, that community thrives. In fact, over 575 Illinois banks have been in business for more than 50 years, and the vast majority of them have been in operation for more than 100 years. Hopefully, they will have the opportunity to continue to stay in business.

As chairman of the IBA, I have traveled 2,000 miles in the last few weeks to meet with bankers throughout Illinois, and their message was strong and consistent about the negative impact the overwhelming regulatory burden and escalating compliance costs are having on their businesses and their ability to serve their customers, causing them to question their long-term viability.

Last year, the Illinois Bankers conducted a survey, and the information gleaned from it was simply startling. More than 160 survey respondents said that in addition to compliance costs and the requirement to retain more and more capital and earnings in lieu of lending, they are likely to consider a merger or a sale of their bank, and this will have a significant negative impact on communities throughout our State.

As prudential regulators and the Consumer Financial Protection Bureau attempt to streamline existing rules and develop new ones to implement Dodd-Frank, we urge you and all Members of Congress to hold all regulators accountable to determine those costs. Those costs of compliance are significant.

We hope Congress will exercise prudent oversight over CFPB as they start to implement the rules, and we urge you to make sure that they replace layers of regulation as is intended and not simply add new layers of regulation.

We also want to express our strong support for two bills that are pending in Congress: H.R. 3461, which seeks to address some of the examination environment and more precise and understandable classification standards for commercial loans, an expedited and independent appeals process, as well as an independent ombudsman to ensure consistency in the examination process.

Also, H.R. 1697 and Senate Bill 1600 would provide banks with some needed regulatory and tax and other of many compliance requirements that disproportionately burden community banks.

In closing, Illinois and the rest of the country can simply not afford to have fewer banks. Our communities depend on banks every day. The banks and thrifts that are doing the business in Illinois employ over 95,000 people and have significant local impact. In other words, they are businesses, too.

Bankers are community leaders. Bankers provide leadership to countless local and regional organizations and activities that are essential to the vitality of the communities we serve. And lastly, banks create jobs.

Directly or indirectly, we all know that small business lending plays a vital role in the economic vitality and the recovery by providing and supplying capital that fuels the desperately-needed job creation and growth in communities across this State and indeed the Nation.

Illinois bankers are committed to help restore our economy through lending and job creation, and we know Congress is committed to doing the same.

Thank you again for coming to Illinois and listening to us, and we look forward to working with all of you to achieve our mutual objectives. Thank you.

[The prepared statement of Mr. Roolf can be found on page 67 of the appendix.]

Chairman BACHUS. Thank you, Mr. Roolf.

Congresswoman Biggert and I would like all the bankers to know that Chairman Roolf has been to visit us in Washington, he has visited with us here, and he requested that we hold a hearing in Illinois and pointed out many of the things about the Illinois banking community that you covered in your opening statement and some things we didn't realize.

There are States where there was a housing bubble, or circumstances in which underwriting standards were too lax, but Illinois was, I think, probably one of the best examples of a banking community that did things right and was the victim of others' missteps, and much of Dodd-Frank is addressed to problems or solutions to problems which your banks didn't have, and so I think it gives some valuable insight.

We appreciate your efforts on behalf of Illinois banks. It will make all of our banks throughout the country stronger if we come here where you were doing things right before the recession.

At this time, Mr. Renn is recognized.

STATEMENT OF JAMES J. RENN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, LISLE SAVINGS BANK, ON BEHALF OF THE ILLINOIS LEAGUE OF FINANCIAL INSTITUTIONS

Mr. RENN. Chairman Bachus, members of the House Financial Services Committee, and members of the Illinois delegation, thank you for holding a field hearing this morning and allowing me to testify today.

My name is James J. Renn, and I am the chief executive officer of Lisle Savings Bank in Lisle, Illinois. We are a two-office mutual savings bank with $544 million in assets with capital just under $90 million. We were founded in 1917.

I am also the immediate past chair of the Illinois League of Financial Institutions, which is a statewide trade association that serves State savings and community banking institutions.

The league was founded in 1880, and its purpose is to serve the Illinois financial institutions' business and public interests by fostering thrift in homeownership and by sustaining and promoting the legislative, regulatory, and business interests of its members.

I believe the focus and culture of our bank is very representative of most of the Illinois League members, and it's visually reinforced by viewing our Web site, lislebank.com. On our home page, you see our motto: “Every person counts.” Our welcome mat is out for all local residents regardless of their income level or account balance.

There is also a CEO message for our customers to read explaining the differences among investment banks, national or regional institutions, and community banks like ours.

Among other statistics, it states the medium-size bank employs 37 people, has $154 million in assets; 3,000 banks have fewer than 30 employees.

Like other small community banks, we believe in developing and maintaining long-term relationships with customers. One out of every three banks has serviced a local community for more than 100 years.

Personally, I have been with our bank for 40 out of its 94 years in business, and I have seen many changes over that course of time. The most recent and dramatic changes, however, have taken place in just the past few years.

We do have a plain vanilla business plan to gather local deposits and portfolio single-family home loans in our market area, yet each year, we feel unduly paralyzed by the time spent on compliance and regulatory monitoring.

In today’s environment, we believe the objective of determining whether a bank is a threat to the FDIC insurance fund has evolved into micromanaging a private business.

It’s also disheartening knowing that banks such as ours were not the cause of the housing crisis, yet we are saddled with the perceived remedies.

We currently have 43 policies that require annual board approval. While there may not be a legal mandate of a one-size-fits-all approach to regulations and examinations, the policies and procedures of the very largest banks eventually become the best practices for the rest of us.

We are struggling with the dichotomy of executing a Home Depot business plan while really trying to be a small town hardware store.

For years, there was a calm, business-as-usual environment at Lisle Savings Bank during safety and soundness compliance and CRA exams, then loan delinquencies, and foreclosures in real estate demanded our full attention.

In 2009, we were told our compliance management system was lacking because we didn’t have a full-time compliance officer. So during the compliance exam, we proactively asked one of our younger management trainees if he would be interested in learning the ins and outs of compliance and assume that responsibility on a full-time basis. He accepted the offer, as he knew promoting from within had always been our preferred practice.

After spending nearly $100,000 on both training and independent compliance consulting services over a 12-month period, we saw that the promote-from-within concept was not going to work in this instance. The learning curve was too steep, and our compliance officer gave notice of his resignation, deciding the banking industry and serving in compliance were not for him.

For the very first time, we were in the market to hire an officer from another bank. After six interviews, we learned that the cost of meeting the demands of the very experienced compliance applicants would make our compliance officer the sixth-highest-paid person at the bank.

I hope our pervasive concern with compliance and decision-making under the auspices of what will the examiner say can eventually become secondary to providing the best possible customer service and pursuing growth strategies.

The increased regulatory burden and interpretations offered during exams result in overwhelming input to our bank's compliance team which really consists of the supervisors of customer service departments.

Compliance expense, excluding salaries, auditing, and training expenses was $80,000 in 2008, and grew steadily to $140,000 in 2011. These costs are severely, severely understated if we're to include the salary expense and allocate overall employee time to regulatory duties. The cost of Dodd-Frank is, as you know, really unknown.

Thank you again for the opportunity to testify here this morning, and please know that your work on behalf of the Nation is greatly appreciated.

[The prepared statement of Mr. Renn can be found on page 63 of the appendix.]

Chairman BACHUS. Thank you.

Did you ever hire a compliance officer, or you just couldn't find one?

Mr. RENN. Our bank is similar to many smaller institutions in that people wear several hats, some certainly more than others, and we had a compliance officer for 15 years but doing IT, human resource work, but we had never had any compliance issues, and all of a sudden, in 2009, the work that he had done in the past apparently was not satisfactory.

Chairman BACHUS. All right. We had some testimony about the young man promoted within the bank, and we're hearing that more and more, people having to go outside their counties and their States to hire consultants.

Mr. Schmitt?

STATEMENT OF JOHN SCHMITT, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NAPERVILLE AREA CHAMBER OF COMMERCE

Mr. SCHMITT. Chairman Bachus, distinguished members of the Financial Services Committee, and members of the Illinois delegation, thank you for the opportunity to speak with you today.

My name is John Schmitt, and I am the president and CEO of the Naperville Area Chamber of Commerce, a regional chamber in the Western Suburbs of Chicago.

Your time is valuable, and I know that you might ask questions of the witnesses today, so I would like to read an abbreviated statement that we have prepared.

The Naperville Area Chamber of Commerce is proud to have approximately 1,400 members of every size and sector. On behalf of all of our members, thank you for holding this field hearing and studying how recent legislation and regulatory changes are affecting the availability of credit for businesses.

Today, I am here to provide you with an update from the business community and to explain the environment small businesses are operating in, and the general themes we hear from our members about the availability and accessibility of credit.

Our Chamber firmly supports sound consumer protection regulations. Our national economy and global economy are still struggling to recover from the depths of one of the worst meltdowns in the history of civilized society.

Small businesses are the majority of our membership, and businesses in America have been hurt mightily during this recession, so while today we are discussing what changes can be made to improve the accessibility of credit, I think it is important to remember just where we have come from.

The recession and its aftermath decimated the small business community. Small businesses are reeling from soft consumer demand, lowered home values, a difficult economic climate, and difficulty maintaining and obtaining credit. The culminant result of this is existing businesses have been pushed to the brink, and many have had to close.

For reference, we recently completed a review and estimated that since January of 2008, 300 businesses that were members of the Chamber have closed and gone out of business.

New businesses are finding it difficult to get started. While small business is inherently a risky enterprise during the good times, the recession and the resulting softness of our economic climate has been a toxic mix for too many entrepreneurs.

While there is a need to save those too-big-to-fail institutions for the safety and soundness of America and the global economy and the financial system, today, it is the small businesses, the smaller institutions, and the American people who are paying the price to restore the financial system to health.

I don't know if regulators understand the perils and the risks of having tunnel vision on their quest to ensure that the mistakes of the past aren't repeated and are having on the business community.

The Chamber doesn't fault them for this. It is the job of the regulatory community to regulate and prevent too much leverage from threatening the financial system, but we hope that they are hearing from you, our elected officials, on the importance of enabling banks to lend to small businesses and start-up firms.

Loans to small businesses didn't cause our economic meltdown, but it seems that our natural reaction to the financial collapse and the past abuses may be hampering our ability to recover by making it too difficult for small businesses to obtain credit.

Unfortunately, I'm afraid that we are just at the beginning of a long and difficult struggle for small businesses to obtain the credit they need to stay open and expand their operations, hire additional workers, and invest in America's communities.

I say this because we repeatedly hear that business owners are spending more and more of their time working on obtaining credit rather than running their businesses and working on actually growing the businesses.

One of the most puzzling and disheartening stories we repeatedly hear at the Chamber is a bank turning away or revoking credit from a long-standing and long-established customer. Often with very little communication, small businesses are told that their existing arrangements must be reworked and will not be renewed or that a business must infuse a significant amount of capital and get the loan renewed.

For a small business, this results in a frantic and difficult chase to secure financing. This is a distraction from running their business and weighs heavily on the decision to hire additional workers.

At this point, I would ask permission to add in the following anecdotes to the record. I would like to ask permission in refraining from using business names or organizations that are seeking a loan.

The Chamber isn't passing judgment on why their experiences turned out as they did. I just want to provide you with some examples of what we have heard and what is important to note and what we have heard from several organizations that responded to problems accessing credit. Generally, they're our long-established organizations, and the vast majority of our negative experiences come from businesses in the start-up phase of their business.

On Main Street and in general, the business community has seen a change in banking relationships. There is a new party in the transition, and it is the banking regulator. Often, businesses seeking loans are told about this mysterious party, and often, bad news is delivered in the name of the regulator.

Our Chamber is pleased provide meeting space and other assistance to the Fox Valley Score chapter. Every week, the volunteers of Score meet with individuals seeking the American dream, to start a business. Before the recession, generally, the advice focused on a need to develop a business plan and to submit it to the bank. Now, however, many of these entrepreneurs struggle to find available credit for their concept.

A Score counselor recently told me that they were advising clients to seek access to private capital in lieu of traditional courses of bringing their business plan to the bank.

That is not to say that every person who thinks of starting a business is taking this path, but I think it speaks volumes to the challenges facing new businesses.

Another very successful retail start-up contacted us about the testimony today. This business owner has a great retail concept and has been doing very well since they opened their business a year ago. As they have pursued a loan to expand, they have been repeatedly denied. They have been told it is because they don't have a three-year track record. This is why they put hundreds of thousands of dollars of their savings into the business they launched. They are growing increasingly frustrated at the inability to obtain financing.

The retail businesses are risky enterprises, and if we want to fill the shopping centers, strip malls, and downtowns of America with the scores of workers we need, we need to have a ready supply of credit available to entrepreneurs with an idea and a concept.

Another example from our membership I would like to share with you is a story of one of the Chamber's Small Business of the Year winners and one of our Chamber board members. He has been trying to expand. He has been trying to do exactly what this country needs, purchase another business, invest in it, take a new retail space, and hire additional workers.

After being told by his bank, where he had a long-standing relationship, that financing would not be possible, this entrepreneur has spent the past 10 months trying to find someone else who would step forward to provide the financing. He is awaiting the final approval from an SBA lender, however, the inability to obtain financing has delayed the expansion and investment in the business.

It is important to remember many small businesses, unlike large corporations, often rely on all of the above means of financing for their business. They use and risk their personal credit, their cash, their home equity loans, their collateral, their credit cards, anything and everything to get their businesses through lean times.

Small businesses, entrepreneurs, and start-up companies' most need of credit is to be available and cheap during the lean times. Small businesses need banks to give them loans when the small businesses need them, not when it works for the bank's ratio or when they have a proven track record.

As I said before, a small business is an inherently risky enterprise, but it brings with it the greatest reward possible in the American dream.

We need a system that can evaluate and review concepts and new ideas and find ways to quickly and promptly provide an answer.

Our Chamber believes endless and lengthy delays in obtaining credit are negatively impacting our economic recovery.

We hope these examples today echo what you have heard, and I want to visit with you and your constituents so it leads the committee toward taking action making it easier for small businesses to obtain and access credit.

Our economy relies on trial and error, success and failure. We urge you to keep a close eye on the regulatory and banking system to make sure that it is not stacked against funding the American entrepreneur. Our Nation desperately needs this talented group of people to bring us back to prosperity.

In conclusion, we hope that you continue your efforts to understand why small businesses are finding it difficult to obtain loans.

If at the end of the examination, you feel that the regulatory community is taking an inappropriate or overly conservative approach towards the availability of credit to small businesses, we urge you to use your regulatory and oversight authority towards making changes that will increase the lending and availability of loans to the budding local entrepreneurs and small businesses.

Thank you for the opportunity to speak to you today. I'll be happy to respond to any questions that you might have.

[The prepared statement of Mr. Schmitt can be found on page 74 of the appendix.]

Chairman BACHUS. I'm wondering whether the entrepreneurs who started Apple or Google or Facebook would have gotten a loan for those risky endeavors?

Mr. SCHMITT. That's an interesting question.

Chairman BACHUS. Thank you.

Mrs. Dory Rand, Woodstock Institute.

STATEMENT OF DORY RAND, PRESIDENT, WOODSTOCK INSTITUTE

Ms. RAND. Good morning. I'm Dory Rand, president of Woodstock Institute.

Mr. Chairman, members of the committee, and other Members, thank you for inviting me here to share my perspective with you today on regulatory reform.

My perspective is based on working with lower-wealth people and consumers at Woodstock Institute, and as an attorney at non-profits in Chicago for over 20 years. I also served on the Federal Reserve Board's Consumer Advisory Council for the last 2 years, and I have served as a member of the Board of Directors of the National Community Reinvestment Coalition.

Woodstock Institute's mission is to create a just financial system in which everyone, including lower-wealth consumers and communities of color, can create economic security and community prosperity. We do this by doing research and policy development on fair lending, wealth creation, and financial reform issues at the local, State, and national levels. We work closely with other groups that provide direct services such as housing counseling, legal services, and other services to consumers.

While I'm sometimes critical of particular financial institution products and practices, I do have a history of partnering with banks of all sizes and credit unions, regulators, and other community members to develop services, products, and programs that serve the needs of underserved consumers and communities.

Representatives of banks and credit unions have served, and do serve, on my Board of Directors, and many financial institutions contribute to Woodstock Institute, including some on the panel here.

Our research has documented the negative impacts of high-cost, high-risk financial products and the deregulation we had that led to this crisis. We know from this research that the negative impacts—high debt, foreclosures, and neighborhood blight—damaged credit scores, caused bankruptcies, and affected broad segments of the community, but they are disproportionately concentrated among lower-wealth consumers: women; communities of color; service members; and older persons.

The negative impacts of the risky mortgage products that precipitated the foreclosure crisis, often sold through non-depository institutions beyond the purview of the Federal prudential regulators, extend far beyond those consumers who directly obtained loans.

The negative impact affects innocent victims including nearby homeowners, small businesses in communities that lost equity, consumers, customers, access to credit, jobs, and local tax revenue.

Moreover, our local governments have incurred additional expenses for inspections, legal notices, code enforcement, and protecting vacant and abandoned properties.

Woodstock Institute's reports about these negative impacts on consumers and communities have been used to develop better evidence-based policies to protect consumers and communities. For example, our reports were used by the Illinois General Assembly to adopt payday loan reforms, by banks and Federal regulators to change tax refund anticipation loan policies, and by the City of

Chicago to pass an ordinance holding mortgage servicers accountable for maintaining vacant properties.

We believe that the Dodd-Frank Wall Street Reform Consumer Protection Act of 2010 contains important provisions and tools that will address many of the problems that led to the current foreclosure and economic crisis and will make our financial system more effective, transparent, and fair for consumers, small businesses, and financial institutions. One of the key provisions requires additional oversight of financial institutions that pose systemic risk to our economy so that we do not again have to use taxpayer funds to bail out too-big-to-fail institutions.

Another key provision of the Dodd-Frank Act is the creation of the Consumer Financial Protection Bureau, the CFPB. Among other things, the CFPB consolidates functions that were formerly spread out among several Federal agencies and levels the playing field so that similar financial products will be governed by similar rules regardless of the type of financial institution providing the product.

The CFPB also has authority to conduct research, field consumer complaints, and develop new disclosure requirements so that consumers can better understand financial products and make wise decisions in a competitive marketplace.

The CFPB is already doing a good job of using its authority to collect consumer complaints regarding credit cards, for example, to collect public input and draft new forms for disclosures regarding mortgage loans and to collect input on streamlining rules and possibly eliminating rules, as Representative Dold suggested may be needed.

The CFPB has also conducted extensive outreach to industry, consumer advocates, and others requesting comments on how to define "larger market participants" that will be subject to its authority.

As you know, many CFPB functions cannot be fully implemented until the Senate confirms a Director. These functions include prohibiting unfair and deceptive acts, writing rules related to model credit disclosure forms, defining larger non-depository institutions, and examining and enforcing laws against non-depository institutions such as mortgage brokers, payday lenders, student loan providers, and others.

We hope that the Senate will act quickly to confirm the President's nominee so that this important work can move forward.

We believe Illinois residents are among those hardest hit by the foreclosure and economic crisis, and we need the Dodd-Frank Act and the CFPB to lessen the risk of future financial crises and to establish a safer and more accountable financial system that works for everyone.

I ask that Members of Congress refrain from weakening this law and agency and instead give them time to be fully implemented, and I look forward to working with you on these issues. Thank you.

[The prepared statement of Ms. Rand can be found on page 61 of the appendix.]

Chairman BACHUS. Thank you.

Mr. Palmer?

STATEMENT OF BOB PALMER, POLICY DIRECTOR, HOUSING ACTION ILLINOIS

Mr. PALMER. Mr. Chairman, and members of the committee, thank you for inviting me to testify. My name is Bob Palmer, and I'm a policy Director for Housing Action Illinois.

Housing Action Illinois is a statewide coalition formed to protect and expand the availability of quality affordable housing throughout the State.

One of our programs is to provide training and technical assistance to HUD-certified housing counseling agencies such as the DuPage Homeownership Center, the Interfaith Housing Center for the Northern Suburbs, and the Rockford Area Housing Coalition represented by some of the Members of Congress here today. Unfortunately, this work is far from done.

Recent data released on the foreclosure crisis showed that more than 46 percent of all single-family homes with a mortgage in the Chicago area were underwater in this year's third quarter, far more than the Nation as a whole.

Nationally, 28.6 percent of homes with mortgages were underwater at the end of September, and 43.4 percent of all homes sold in the Chicago area in the third quarter sold for a loss compared to 34.4 percent nationally.

A new report from the Center for Responsible Lending, that I go into some detail about in my written testimony, shows that we're not even halfway through the foreclosure crisis. And this report also shows that some of the troubling mortgage products that Dory cited in her testimony are very much strongly linked with higher foreclosure rates.

We know that the ephemeral question that there's still no agreement on is whether the foreclosure crisis was a result of too much or too little regulation.

Many people have tried to blame the Community Reinvestment Act for the crisis, but a February 2009 Federal Reserve Board study showed that 94 percent of the high-cost subprime loans sold nationwide in 2006 were issued by lenders who were not covered by the Community Reinvestment Act.

We believe that if the regulatory provisions in the Dodd-Frank Act had been in place back in 2006, the housing market and the overall economy would have been much healthier today.

Some of these provisions that have yet to be implemented include: requiring lenders to ensure a borrower's ability to repay; prohibiting unfair lending practices, such as incentives for subprime loans, that encourage lenders to steer borrowers into more costly loans; establishing penalties for irresponsible lending; establishing consumer protection for high-cost mortgages; requiring additional disclosures for consumers on mortgages; and establishing the Office of Housing Counseling within HUD.

One part of the Dodd-Frank law that the Consumer Financial Protection Bureau has already begun to implement is Know Before You Owe, an effort to combine two federally-required mortgage disclosures into a single simpler form that makes the costs and risks of the loan clear and allows consumers to comparison shop. Once this is completed, this will benefit both consumers and lenders.

In short, I think the Dodd-Frank Act will provide a more level playing field between different types of lenders, remove some of the problematic incentives in the mortgage market that led to the foreclosure crisis in the first place, and give consumers more tools to make informed decisions before taking out a mortgage loan.

The experience of HUD-certified housing counseling agencies in Illinois has been that the overwhelming majority of predatory loans were made by bigger banks and previously unregulated nonbank lenders. Moreover, it is the big banks that are generally much harder for borrowers to work with in case of default.

Before the housing bubble burst, the lack of regulation gave the big banks and unregulated nonbank lenders unfair competitive advantages against small and community-based lenders which were generally much more responsible in their lending.

The Dodd-Frank Act authorizes the Bureau to examine all sizes of nonbank mortgage companies, payday lenders, and private education lenders, however, the Bureau generally will only be able to supervise larger participants in other markets for consumer financial products and services, and the Bureau must develop a rule, which they have yet to do, to define those larger participants.

The Bureau will be able to examine companies which have never been subject to Federal oversight to ensure that no one is getting an unfair advantage by breaking the law. This will ultimately create more fair competition and more transparent markets for consumers.

We also hope that the Senate will quickly confirm the President's nominee to lead the Consumer Financial Protection Bureau so that this important work can move forward.

[The prepared statement of Mr. Palmer can be found on page 58 of the appendix.]

Chairman BACHUS. Thank you, Mr. Palmer.

How many of you have worked with Mr. Palmer and Ms. Rand? When talking about the Consumer Protection Financial Bureau, how many of you—and you, Ms. Rand, have worked with them?

Ms. RAND. Yes, sir. I have been to meetings there, and I have responded to their requests for published comments on a number of issues.

Chairman BACHUS. Mr. Palmer, have you worked with them?

Mr. PALMER. A couple of months ago, representatives from the Bureau had a roundtable discussion here in Chicago for housing counselors to find out what was happening, the latest trends in the market, I believe on the same day that we were making a presentation at the Mortgage Bankers meeting.

Chairman BACHUS. Have any of the other witnesses been working with CFPB?

Mr. OHLENDORF. I have been involved in four different meetings with Professor Warren, who was heading up the agency at that time and trying to get some input as to what we thought was important.

One of our members who was in those meetings brought up mortgage disclosures from his loan which was 35 years ago, and it was four pieces of paper. When he bought the loan, when he closed the mortgage on his house with the bank, it was a stack that was several inches high, so we're trying to show that some of these burdensome regulations that have come on, if there's a way of streamlining those things and a way to make it more meaningful to the consumer, I think it would be a positive step.

Chairman BACHUS. One thing that you mentioned was the foreclosures and the new City law here in Chicago.

Actually, I had talked with the regulators—Fannie Mae, Freddie Mac, and Mr. DeMarco with FHFA—and, of course, as you know, Fannie and Freddie are 100 percent owned by the taxpayers, and Mr. DeMarco believes that law is actually going to cost the taxpayers a considerable amount of money because of the loans that Fannie and Freddie made.

It's my understanding that this new law makes the lienholder of the first mortgage responsible for maintaining the property; is that correct?

Mr. ROOLF. Yes, it is.

Ms. RAND. That's correct, sir.

Chairman BACHUS. And these are abandoned properties?

Ms. RAND. What our research showed was that after the filing of the foreclosure, the mortgage servicer just abandoned the property, didn't proceed with the foreclosure process, but the residents had already moved out, and so the properties were causing blight in the neighborhood and cost to the city, and the servicers weren't taking care of that property, they were just walking away from it.

Chairman BACHUS. Then, was it that they weren't able to foreclose or they just refused to foreclose?

Ms. RAND. They chose not to proceed with the foreclosure proceeding. We don't know why, but I can only speculate they thought it was more profitable to them to do that than to proceed with a foreclosure.

Chairman BACHUS. I can't imagine how it would be more profitable for them to not foreclose.

Ms. RAND. It was happening thousands of times in the City and causing significant problems to lots of innocent neighbors.

Chairman BACHUS. The interest is to see that the property is foreclosed as soon as possible and put back on the market, is that—

Ms. RAND. Yes, for those properties that are confirmed as vacant and abandoned, we support a more rapid court foreclosure process, but for houses that are occupied by residents, of course, we want time to try and negotiate a loan modification or a principal reduction or some other outcome.

Chairman BACHUS. If it is occupied, that would mean there's no—is there an obligation on the lienholder?

Mr. ROOLF. Mr. Chairman, if I may, I think we need to make a distinction between an owner of the property and a lienholder of the property.

Chairman BACHUS. Yes.

Mr. ROOLF. First off, as a lienholder, we cannot go on that property until the foreclosure is completed.

We have worked in the past—the bankers have worked in the past to pass legislation in Springfield that would allow for a superior lien to be placed by the community if they plowed the snow and cut the grass and did other things to monitor and make sure that property stayed intact, if you will.

I think that's a big distinction, because the foreclosure process right now in Illinois averages about 504 days from start to finish, and that's a very extensive time.

I can't speak for all the mortgage servicers who perhaps looked at a property and suggested that it was simpler for them to walk away. That's certainly not what I know bankers to do. We have worked through this process.

Our biggest concern is that we're in a "damned if we do, damned if we don't" situation. If we were going to do something to modify property based on it being vacant before it's foreclosed on and we actually take ownership, the individual who abandoned the property could come back and litigate against us.

So, I would look for a balance on that if we could arrive at something, but my biggest concern is this ordinance will cause the secondary market to look at Chicago and, say, raise some questions, do I want to buy mortgages that are made in the City of Chicago because of this additional situation that has been precipitated by the ordinance, and that ordinance suggests that we have to be thinking about a last resort on every credit that we make.

It's difficult enough to assess the risk. It's also difficult to suggest that the values of the properties and people who are underwater which is very unfortunate, but that's a market force, that isn't a banker force.

I built a home 11 years ago that cost me $240,000 to build. Today, it's valued at $250,000 after hitting a high of maybe $300,000. Do I like that? Absolutely not. Have I walked away from my responsibility to continue to pay the mortgage that I have? Absolutely not.

Chairman BACHUS. I would think it would obviously impact community banks that own the mortgages on these vacant properties. It's a cost that I'm not sure how you would make up unless you charge more for the actual mortgages or even vacated that market.

Mr. OHLENDORF. Mr. Chairman, that is absolutely correct. The cost of originating, you have to take in all of the risks and expenses that we could theoretically incur.

I have talked to bankers who, because of talk of this ordinance, have said that they're just not going to participate in the market. Every time you withdraw participants from the market, you obviously end up with less competition and the opportunity for those that remain in the market for abusive practices and other things of that nature.

If we have that loan in the marketplace, we have all the risk in the world, and walking away and taking zero is not the best alternative in most situations, at least in the small community banking world.

Ms. RAND. Mr. Chairman, I would point out that this ordinance passed the city council twice unanimously. Between the first time it passed in July and the second time it passed in October, there were a lot of discussions with the bankers about some of these concerns and some of the definitions that were negotiated, and then the ordinance did pass again unanimously in October.

And I think you have to balance these concerns with the impact on the neighbors and the communities in the city. This was costing the city $36 million a year, so something had to happen.

Chairman BACHUS. Thank you.

Mrs. Biggert?

Mrs. BIGGERT. Thank you, Mr. Chairman. Again, thank you all for being here.

My question would be for Mr. Bates.

Many bankers have told me that they have no recourse when they have a dispute with their regulator, in other words, the regulator is the judge, the jury, and the executioner for a dispute or a disagreement in the bank examination.

Can you tell us more about the current appeals process when the bank management wishes to appeal the examiner's findings it feels are unfairly stringent?

Mr. BATES. The major appeal process—first of all, if there is a dispute, our primary regulator, which is the FDIC, attempts to resolve things in the field before they will even issue an examination report, however, if you can't resolve things with the field examiner, there are steps through the FDIC to follow, and if the dispute remains, there is an ombudsman process that a bank can avail itself of, however, typically, because of the power that regulators hold, you do feel as though they hold all the cards.

Mrs. BIGGERT. Is this ombudsman someone from the FDIC?

Mr. BATES. Yes, it's an FDIC or OCC employee, depending on whom you're regulated by.

Mrs. BIGGERT. Would it be better to have an ombudsman who was independent and wasn't really with either of those agencies?

Mr. BATES. It would probably be better if they were independent and separate from the agency, but currently, the process is they do work for the agencies.

Mrs. BIGGERT. So many times, we have heard that the FDIC, the Director didn't know what the field person was doing, in other words, there was a time where the field person went in and said that they needed to devalue a loan even though it was performing, even though there had been no lack of payments. The FDIC oversight stated that they would never do that, yet that happened; is that correct?

Mr. BATES. Yes, there have been instances of that, I'm sure.

Mrs. BIGGERT. Mr. Roolf, thank you for being here. You're very close to my district, so welcome.

In conversations with other bankers, have you found that the examination procedures are being applied appropriately?

Mr. ROOLF. I think that's one of the biggest challenges, Congresswoman, that it's thought that the examinations are being basically performed based on the individuals and not necessarily a consistent application of the regulations.

When you think of regulations and you think that there's Reg A through Reg QQ, and then there are about 15 or 16 other Acts that all banks are expected to follow, it may be difficult for examiners to apply that uniformly. That might be a challenge.

I have also heard that when there are those challenges and disagreements, oftentimes, the banker doesn't even want to engage the regulator to talk about those differences because of consequences that might come as a result.

They may not be implicit, but somewhere in there, there might be some retribution that comes as a result of that, and that's the independence in having someone who could visit with a bank and visit with a regulator independently to assess the situation. I think it would be a great way to handle that situation.

Mrs. BIGGERT. Thank you.

And Mr. Schmitt, thank you for being here from my district also.

According to some, they say that the decline in loan activity is attributable in part to the dearth of qualified buyers, for example, a recent survey by the Federal Reserve and the National Federation of Independent Businesses indicates that the loan demand is generally weak.

How do these surveys compare to your experience and why do they think the loan activity is down?

Mr. SCHMITT. I think loan demand is lower today than it was a few years ago because we have gone back to having certain qualifications where we didn't have qualifications before.

Prior to being with the Chamber of Commerce, I was in real estate for over 20 years, and when I started, we had ratios that we had to adhere to, to be able to sell into the secondary market. We had to ensure that the loan to value was greater than 80 percent.

Over time, a lot of those things went away, and so there were more people who came into the market who were able to borrow, and it created some issues. And now, we have had to go back to more or less like retro real estate, retro lending back with the rules and regulations again, but we don't want to pile too many on there.

Mrs. BIGGERT. I have one more question for Mr. Renn, from Lisle.

We have heard from many bankers about the additional costs, and you presented in your testimony how the costs had gone up for compliance burdens. When do you get to the point where it's too expensive for your bank to offer certain products or services?

Mr. RENN. I wouldn't say it has to do with the cost of the product. I think it's the—I had that analogy of a Home Depot business plan for a small hardware store.

As I said, I have been there 40 years as well. We have many employees who have been there a very long time, and I think the point is that the formality and the structure of how the business is run is just so much different than it was when—I don't want to say when I started, because that does go back some time, but it seems like it's more for the benefit of the examiner when they come in. It's easier for them to look at the minutes of different committees.

And all the formality of holding really strategic planning sessions for different departments has gone into just compliance and people on a committee because we really—and we had one compliance officer, and compliance is throughout the bank; there's no question about that.

So you're taking really in our case employees who are customer service people in their respective departments, but because compliance also touches part of their jobs, you have these committee meetings that last long and with minutes, and you're always proving up the daily activities of the bank.

An example that I can give—and this is maybe a little bit away from compliance per se, but more with how the bank is run.

The examination process of banks, there's the CAMELS rating which I presume some of you are familiar with. And 2 years ago, we had our exam, and the "L" in CAMELS is liquidity, and we have a two, which is okay. That's good, but I asked a very commonsense question: "What do you have to do to get a one?" You're always asking for some guidance.

And there was a kind of a long pause, and they said, "Actually, your balance sheet has the characteristics of a one."

So I said, "So you're saying that really, how we have managed the bank, we should have a higher rating than we do?"

And he didn't answer that directly, but he said, "Your problem is that you didn't have minutes of your Asset and Liability Committee, and you didn't stress that's your portfolio" which is something else.

But what's interesting, when I started, there were only 12 employees; we have 65 now, and so that answer was like you achieved the results, but you didn't prove how you got there, so the results don't matter, but proving that you got there counts.

The following year, we had an exam, and I asked that question again, because we did the things that they had asked, and so the response was, "You're still a two."

Mrs. BIGGERT. Thank you.

If I may, Mr. Chairman, I would ask to submit for the record statements from Michael Steelman, chairman and CEO of Farmers & Merchants State Bank of Bushnell, Illinois, and Peter Haleas of Bridgeview Bank & Trust of Bridgeview, Illinois, and the statements submitted by the Bolingbrook Area Chamber of Commerce.

Chairman BACHUS. And they're here in the audience?

Mrs. BIGGERT. Yes.

Chairman BACHUS. Would each of you gentlemen stand up? Thank you.

Mr. Manzullo?

Mr. MANZULLO. Thank you. I appreciate your coming here.

Mr. Ohlendorf, what did your bank do to bring about this crisis in finance and home mortgage?

Mr. OHLENDORF. Honestly, very little. Unfortunately, we were just kind of participating like a community bank for 95 years has participated, and something happened, and I'm not sure what.

Mr. MANZULLO. Mr. Bates, what did you do wrong?

Mr. BATES. Absolutely nothing.

Mr. MANZULLO. Mr. Roolf?

Mr. ROOLF. Nothing.

Mr. MANZULLO. Mr. Renn?

Mr. RENN. Nothing.

Mr. MANZULLO. I closed over a thousand loans, I brokered at a couple of banks and even before RESPA when you had the three pages like that, and when you go to a closing nowadays, people don't read them. You can't. If you don't sign them, you don't get the house.

So now we have more and more regulations including appraisers going out, doing RESPA for years, MERS came along, and we fought that like crazy because with the electronic recorder of the mortgages, you can no longer track who owned the note to the county offices on it.

And as I see what's going on here, the Federal Reserve has always had the authority to govern underwriting standards and documents to the extent it has authority over banks, and it wasn't until 2 years ago that the Federal Reserve actually came up with a rule requiring written proof of a person's earnings before a person could borrow.

The GSEs either as to the loans they would collateralize and sell to the secondary market or hold in their own portfolio have always had the authority. They have underwriting standards to the loans that they would accept. What did they do? They did nothing because housing went from a privilege to a right, then it became an entitlement, and at that point, all the standards fell.

And so here we are with this biggest mortgage collapse going on because somebody didn't use any common sense out there, and the people who did not cause the problem are now—many of them are sitting before us saying, "You have to do something."

We had a hearing, Mr. Chairman, I think it was last week, with the acting Director of the Consumer Financial Protection Board, and he said they're examining over 10,000 transactions as to which they're trying to determine whether or not they have authority.

This is outrageous, but I would like to, Mr. Ohlendorf, ask you another question.

I come from Northern Illinois, North Central Illinois, and I'm impressed with the force of bankers here, and I am very, very disturbed on Page 4 of your testimony when you talk about the qualified residential mortgage and because regulations are written incorrectly and then the Farm Credit System, the direct lenders can come in and actually threaten to take away your business. Could you expand on that?

Mr. OHLENDORF. I'm concerned about several of the new mortgage rules and the definitions of what they're going to be.

In a community bank, it's easy to understand a 30-year plain vanilla mortgage, and I wish everyone would qualify for one, but it just isn't the truth.

If you're in rural areas like we are, all our homes aren't cookie cutter subdivisions where all of them look alike and they all follow the same rules. We have people with horses and a barn and other things like that, and so we make balloon loans which are just a way that we can portfolio that, hold the interest rate exposure risk to 5 years, and then refinance the product as 5 years roll along.

They're starting to define disqualified residential mortgage and unqualified mortgage and what these terms will be and what the safe harbors will be. And our significant concern is as they define these terms, if they're defining them too stringently, what's going to happen is a lot of the loans that we as community bankers have made and the portfolio, which means we have the entire risk, the credit is on our balance sheet. If this loan fails, it's ours.

And then you tie the mortgage escrow requirements in on high-cost loans and the way some of those indices were set which were set many, many years ago with interest rates as low as the Fed had allowed them to drop were triggering on very normally-priced loans triggering into high-cost mortgage loan territory, and so now I'm saying to my customer, "In order to give you this loan, we have to escrow your taxes."

And we have had these customers for 10, 15, 20 years, and we have managed their finances quite nicely, thank you, and we have managed their escrow, and now we look at them and say in essence, what we're saying is, "We don't trust you enough anymore to handle it on your own, we now have to add another layer of bureaucracy."

That's always very, very expensive to offer. A lot of community banks aren't in that business because it is complex, it is cumbersome, and now I'm telling my consumer that, "We really don't trust you anymore."

So what happens with all of these rules and regulations is that the type of loans that we make, we have been creative, we have helped people with unusual circumstances and situations become very successful, and now, because they're not cookie cutter and they don't follow what maybe the definitions turn out to be, all of a sudden, some of those loans we're going to have a very difficult time doing.

And again, I have heard bankers say, "We just may not be in that business anymore, we're running out of businesses to be in."

Mr. Schmitt, you have a unique background, having come from the real estate industry. Why did these standards slip, why did the normal loan-to-value ratio and the amount of downpayment? What happened?

Mr. SCHMITT. I don't know exactly what happened totally. It might have been a little bit higher than my pay grade at the time, but I was always told that the loans had to be certain specifications and certain standards so that they could be sold onto the secondary market, and so they basically had to be cloned. Okay?

Then I believe they had the ability and the secondary market began to buy them when they weren't necessarily cloned and weren't all the same, and it had to be greed.

We used to insure anything more than 80 percent financing. Where it really got kind of absurd is when you would have an 80 percent mortgage, a 10 percent mortgage, another 10 percent mortgage, and then can get a line of credit as you walk out the door of the closing and be underwater.

Mr. MANZULLO. During the height of the real estate heyday, about 25 percent of the mortgages were collateralized with the GSEs, and now, it's about 95 percent, but the GSEs had the authority at that time to insist upon strict underwriting standards.

We have been looking at these all day in the subprime mortgages; am I correct? You would know that. That's a matter of law.

Mr. SCHMITT. Yes, I don't know why it happened except, as you said, it went from a privilege up to almost an entitlement.

Mr. MANZULLO. Thank you.

Chairman BACHUS. Mr. Dold?

Mr. DOLD. Thank you, Mr. Chairman. I appreciate it. Again, thank you so much for taking your time to be with us today.

I have had an opportunity to talk to a number of financial institutions, and many bankers have actually had the opportunity to talk with me and my staff about the disproportionate impact of the increasing regulations that are out there, and I'll go back to my earlier premise.

We need regulations. We want them to be smart regulations, we want them to be focused. We just don't want more of them just to have them.

Can you talk to me a little bit about how Dodd-Frank—and again, when we look at the rules and regulations that are out there, there are an enormous number of rules that have yet to even be written, and the uncertainty that's out there that's being placed not only on the financial institutions but on those that are looking to try to comply, can you give me some sort of an indication of how that's impacting your business right now in terms of the small financial institutions in Illinois?

I guess we'll go more on this side.

Mr. ROOLF. If I may?

Mr. DOLD. Sure.

Mr. ROOLF. I talked to a few bankers and I asked them to give me some live examples. And this happens to come from a bank in New Lenox, Illinois, a small community bank that was started about 6 years ago, and they're a $125 million bank with 24 employees, and their annual cost right now is about $200,000 a year and growing. That's a very significant, significant cost to put on a bank of that size.

And I think when you recall I mentioned Regulations A through QQ, any one of those regulations is probably appropriately defined and put in place, but when you start looking at the cumulative impact that all of those are having, a bank that's $125 million trying to comply with the same rules and regulations as someone that might have 400 people in their compliance division is just something that I think you're going to cause banks like this to look at their organization and say, at what point have we spent so much money on compliance to a point where we can't return on investment to their local investors.

When you talk about these small community banks, their investors are the hardware store guy, the barber, the doctor, the dentist. They're people in the community who invested in their own community, and thus, this bank plays a very intricate role in it.

And I think that's the concern, because there are, as I mentioned earlier, 584 banks that are headquartered in this State. They're in communities as small as 700 or 800 people. If you take that bank and continue to layer on this regulation, their survival is indeed in question.

Mr. MANZULLO. Any one of you can jump in also.

Mr. OHLENDORF. Congressman, we understand as well, as you stated in your premise, that regulation is part of our business and it's certainly required for many things. We get that, but it is akin to treating a patient with cancer. We don't go in and kill the body because that would get rid of the cancer. We go in and try to surgically take out as little as we can and treat the area around it and then move on.

And unfortunately, these regulations, especially if we have come down because of the mortgages and because some of the too-big-to-fail institutions, we all get blanketed with the solution, and we're looking for the opportunity to tier out the folks who didn't do the wrong thing.

You have all said, and we appreciate that you're understanding, that the community banks didn't cause this problem. We have talked about that over and over, and we really appreciate your understanding there, but then also, we can't just get blanketed with the solution, and so there have to be places in these regulations where we can find ways to surgically go after the things that didn't go well and the folks who didn't do the right thing and protect the rest of us from having to comply because it's this overlap, as Mr. Roolf said, this overlap of regulation. One more regulation doesn't seem like a lot until you add them all up.

Mr. ROOLF. May I add one thing, Congressman?

Mr. DOLD. Please do.

Mr. ROOLF. Mr. Palmer made a statement earlier about 94 percent of the problem or the financial meltdown, if you will, was caused by unregulated financial organizations. That's a critically important statement because the regulations and those who were playing by the rules are still playing by the rules.

Don't misunderstand our concern with whining. We are not whining; we are indeed concerned. And the 6 percent of us who operate in the world by the regulations, however many of them there are, are not saying we shouldn't have regulation, but what we're saying is we need to be meaningful in terms of reviewing what's there and what continues to be applicable and modify it accordingly.

Mr. DOLD. One of the concerns that I have had is the one-size-fits-all kind of mentality that Dodd-Frank has really placed on some of the financial institutions and its impact as Mr. Schmitt, I think, brought up in his testimony on some of the entrepreneur small businesses that are out there.

As a small business owner, let me just tell you I recognize that access to capital is absolutely critical just to run the business each and every day, and if your receivables are up a little higher, you're going to need to dip into perhaps a line of credit that you have at a bank or something along those lines.

One of the things that I hear about is we have heard about the banks that have to limit that line of credit in light of that, a $100,000 line of credit, $50,000 line of credit, and all of a sudden, if you have $20,000 off on that $50,000 line and you drop that line to $25,000, all of a sudden, that impacts your credit score because now you have borrowed a significantly higher percentage.

And so, you find those that are in performing mortgages right now that all of a sudden, banks are going back to them and saying, "By the way, your loan to value is now underwater, and we're going to require that you put in additional capital," which for most small businesses is devastating. They come to you for the access to capital; you're not supposed to go to them and ask for additional capital. And these are the performing mortgages.

And so we hear about the entrepreneur that is 100 percent occupancy in a building that they're operating that has to go to 22 financial institutions just to get access to additional liquidity.

Is this something that you're experiencing in the banks in your day-to-day operations, and could you shed a little bit of light on that?

And more importantly, really more importantly why we're all here is what should we be doing in the United States Congress to try to rectify that, because I can tell you I have an instance, we have a thriving practice, physician practice, up in the 10th District that purchased a building and a piece of property, and the banks came to them and said, "Look, we're going to have to foreclose unless you come up with an additional million dollars."

They were able to come up with that additional million dollars, but I would argue that the highest and best use of that land and that facility that was built for them is to run this physician practice. They never missed a payment.

Running a small business, I can tell you that when you factor in things like rent, that you know you have to pay the bank "X" number of dollars each and every month, and whether the bank views that as underwater, they're viewing it as a block between running their business.

If you have any examples, I would welcome that, and then we'll come down to this end of the table because we don't want to deny you the opportunity.

Mr. ROOLF. I have an example of that.

You'll recall I mentioned that I had traveled about 2,000 miles without leaving the State of Illinois over the last few weeks talking to bankers in preparation for today, and let me read it just because I haven't been able to study it sufficiently, but I think it's a good example.

It says: "Allow me to highlight a specific example. We have a local borrower who owns a gas station which faced an enormous real estate tax increase. This tax increase caused the borrower to come to us and plead for assistance, parenthetical, a lowered rate and a modified amortization schedule, yet because we would be forced to carry this loan in a troubled debt/restructured category or TDR as it's known in the industry, it results in a classified asset.

"We told this borrower we could not help him. As a result, he shut his business down and fired his employees. The bank was left with no alternative but to incur a loss via the sale of the asset in order to avoid carrying the classified asset on the books for an extended period of time.

"These actions forced upon us were morally gut wrenching. We did not help an individual, and we certainly did not assist in economic recovery."

This banker specifically asked if we would review the requirements of the troubled debt restructure.

If we take a borrower who is struggling and we modify the terms of their agreement in any way, it becomes a troubled debt restructure, and as such becomes classified. When it becomes classified, they charge capital, make the loan provision, and it erodes your capital base.

This is a very significant issue so this is one that we could look at very much so. Particularly if the borrower over the last 5 years has paid as contractually agreed to, we should be allowed to work with those individuals, and we can't.

Mr. DOLD. If I can just turn a little bit—and I certainty want to talk more about this as we go another round. I just want to talk about the FSOC and then the CFPB for just a second.

The CFPB has a decision that they make concerning your view on this and the perspective.

In order to overturn a decision that the CFPB makes or perhaps the Director, who right now, the sole power really rests with the Director of the CFPB, and we can all agree that we want consumer financial protection. I don't think there's anybody who wants to see, or in the room who doesn't agree that we should be able to have some protection for the consumers but a decision made by the Director.

And really, what I would like to do is take it forward 10 years from now so that we take all politics out of this. So whoever the President appoints as the Director to the CFPB, that individual will have a significant amount of power.

The decision that they make, should it be overturned by the FSOC or Financial Services Oversight Council, right now, it's a two-thirds majority to do so. Is that too high a threshold for the CFPB in terms of something that would have systemic risk?

Mr. OHLENDORF. Congressman, I'm very concerned about that, and I'm concerned about the single Director as well. I would love to see it be a panel. I think there's a lot of power vested if you appoint one individual.

Once the CFPB is cut away and it's out standing on its own, my prudential regulator which is responsible for safety and soundness also did my compliance in days gone by and wrote the rules, and they knew when they wrote those rules—they knew my safety and soundness situation, they knew the bank safety and soundness. They were very close. I think there's a nice relationship there.

Now, we have stripped that and put it over in some corner, and this two-thirds requirement—and it's not just two-thirds, it's two-thirds under some very limiting circumstances where a rule could be overturned. Prudential regulators would really pull away from that.

And they have the regulators, they're in the banks, they're in the bank every year, every 18 months. They're gathering a lot of good information about what's really happening in the field, and I think it's very important that they're staying involved, and I'm very concerned that the bar has been set too high and also the criteria upon which a decision can be overturned is also very stringent.

Mr. DOLD. Ms. Rand, if you just wanted to chime in, go ahead.

Ms. RAND. No surprise, I disagree with that opinion. I think it's extremely important that the Director and the CFPB have independence and autonomy within the context of consulting with the prudential regulators.

I think part of the reason we got to this foreclosure crisis is because the prudential regulators were in what we call regulatory capture; they were too closely identified with the banks that they supervise.

In fact, I think it was Mr. Chairman who even said, "the regulators are there to serve the banks," and that's really how a lot of them looked at their job. So I think having an independent agency whose sole purpose is to look out for consumers is absolutely essential.

Mr. DOLD. I guess I—

Chairman BACHUS. Ms. Rand, that has been a quote that has gone around.

My statement was that the regulators were public servants, and that means they should be public servants to the banks as well as to their customers, and that was taken out of context.

Actually, it wasn't even taken out of context. It's a misstatement similar to the 60 Minutes show where it said that Immelt told Paulson that GE might default on some of their obligations, and that Paulson may have told me, and that I short-sold GE.

I bought GE, so it was a total misrepresentation, but those things, they take on a life of their own.

Ms. RAND. Mr. Chairman—

Chairman BACHUS. And I can tell you that you see that on some of the blogs, but if you go back to the original article, you can see that I said that the regulators should consider themselves as public servants.

And the question was, do you consider them as public servants to the banks, and I do. I think they're there to serve the banks and everyone else, but you took that out of context. That's why they're called public servants.

Mr. DOLD. I guess if I can follow up.

Chairman BACHUS. But I also said that they should enforce the rules and that they should enforce them right.

Mr. DOLD. I guess if I could just—for clarification, it wasn't the existence or whether we should have a CFPB or an FSOC, it was the threshold of two-thirds, should two-thirds of the FSOC have the vote because that's an extraordinarily high threshold. Should it be a simple majority when you look at just who comprises the FSOC?

And that was really my question, should it be at two-thirds or the smaller—

Ms. RAND. I think it should be the two-thirds requirement because I believe it's necessary to preserve independence of the agency, yes.

Mr. DOLD. Okay. Thank you.

Mr. Chairman, thank you.

Chairman BACHUS. Actually, the CFPB is a voting member, so it's seven out of nine, which is actually greater than two-thirds, but someone mentioned the burden.

The burden of proof is that the rule would bring down the entire American economy, and I doubt that one rule—it may bring down all of the community banks, it may bring down all of the insurance companies, but anyway, that's a debate we are having, whether one person ought to have that much power, and there are differences of opinion.

Mr. Schweikert?

Mr. SCHWEIKERT. Thanks, Mr. Chairman. And it's always sort of fun trying to explain the differences between selling short and actually buying long.

Chairman BACHUS. And obviously, if you were in a meeting and someone said "GE is going broke tomorrow," and 2 days later, you went out and bought the stock, I have hearing aids, and maybe my hearing aids were off, but I was a railroad lover and a representative of GE years ago, and they make the only diesel engines for the trains, and I bought it because I thought they had a good business, and the stock had fallen and fallen and fallen. As opposed to short selling it because "I didn't have faith in the financial industry, I was buying it—produced British aircraft engines."

They also said I went out and bought financial—here I am the Financial Services Committee Chairman, and I went out and got financial services, ETF, and I won't bore you with what ETF is—and that I shouldn't have been doing that, I should have bought energy or technology and something else.

I didn't buy financial; I bought energy futures. They were an energy company, but that doesn't prevent those stories that will be out there till the day I die, sort of like all of us in this room, where do you go to get your reputation back?

Mr. SCHWEIKERT. Mr. Chairman, two things I have learned in my 11 months now doing this job: you would be stunned how much public policy is done by folklore; and I'm heartbroken to find out how often a good story is the story that you can just make up.

Because I'm the guy from out of town, I want to try to do this quickly, because I know our time is somewhat limited.

Ms. Rand, before there was a part of the discussion of how, I guess, these local regulations in regards to what a lender—we're a nonrecourse mortgage state here, yes?

Ms. RAND. We're a judicial foreclosure state.

Mr. SCHWEIKERT. Yes.

That the lender is obligated to go in and maintain and board up a property that's declared abandoned by a municipality?

Ms. RAND. I don't have the details at my fingertips, Congressman, but my understanding is that for confirmed vacant and abandoned properties where the foreclosure is not yet complete, the servicer has some obligations under the ordinance that require some upkeep so that—

Mr. SCHWEIKERT. So there's an ordinance that actually allows them to gain access onto the property?

Ms. RAND. It requires them to do some maintenance so that it doesn't become a blight on neighboring properties.

Mr. SCHWEIKERT. I appreciate the blight thing. We have dealt with that.

What I mean is just how the municipality—specifically how the municipality from a governmental standpoint is able to gain access to the property, and very often, they attach a lien.

It's an interesting property rights issue if you're going to have a lienholder who now goes and has access to that. I will make a point to read about this.

I must tell you, we have been—one of the things I have great interest in is mortgage insurance and the way you securitize some of these, the mechanics out there, and I always have this great concern we're heading towards a time where there will be a differential in the pricing of loan mortgage guarantees because of if it truly takes 500 or 600 days to do a judicial foreclosure here, you're a lot more expensive than a deed-of-trust State such as I come from where it can be—I think we're averaging 4 or 5 months.

Just reality, you deserve to pay a premium on your loans because your loans are more expensive, and why should my folks in Arizona be subsidizing your mortgage instruments?

Just understand—and as you stack other things on, just understand that you will—not only for your court system, the type of loan instruments you do or your regulatory system, you deserve to pay a premium. Other folks in other parts of the country, why should we be subsidizing them?

I have a great interest because it's not often we get to sit down with community bankers in this type of forum, I hear lots of discussion in literature about the mark-to-market and how often we'll have an occasion where you have a performing strip center. And I'll use this because I have a little article with me about this very situation.

A strip center, long-term tenants, a couple of them even credit tenants, the strip center down the street goes through foreclosure, sells here. The regulator walks in and says, "Yes, this is a performing loan, yes, you have some credit tenants, but yes, you have too high a debt ratio when we adjust to the sale over here, go get your owners to bring in some cash."

Have any of you had that experience? I'll take anyone.

Mr. ROOLF. I would say that's not an untypical situation. I think that those occurrences happen across the State.

In terms of working with bankers as I have, as I said, over the last few weeks, I have heard examples from them where they were required to ask for additional equity and for additional collateral of some sort, equity in your business or additional collateral that helps bring that loan to value and balance.

Mr. SCHWEIKERT. When you have had that type of occurrence, has your discussion with regulators looked at either the tendency or the cash flow? Because I come from the world where you would look at the cap rate and say yes, the cap rate works and my payment history works, but even though those things would look fairly solid, you would still be having to go into the capital call.

Mr. ROOLF. We would still be challenged in that regard, yes.

Mr. SCHWEIKERT. Is that a consistent story here you come across?

Mr. ROOLF. It would be unusual to ask for a show of hands, but you could ask the bankers in the room specifically, and I would not be out of line to suggest that every one of them has had that experience over the last 2 or 3 years.

Mr. SCHWEIKERT. While it's a concern to so many of us, if you have an ongoing concern that's working, you have just pushed on a level of uncertainty to not only the lender but also that other business saying just because some—forgive my language—screwball made a mistake and this all of a sudden, is your gas station example—the economic future now is in the hands of not your loan performance, not your quality of your capital and not your history but this becomes now that mark-to-market issue.

Mr. ROOLF. And you have taken out the judgment that the banker uses to assess the risk and the character of the individual they're doing business with. That's an important component of the loan arena.

We have to know our borrowers and we have to understand what it is they're trying to do, and if we can't give them the benefit of the doubt, then we have a vertical climb trying to make loans anywhere.

Mr. SCHWEIKERT. Mr. Chairman, I know I'm out of time, but this goes to anyone else in the room. I am trying to collect—

Chairman BACHUS. You're actually 2 minutes shy.

Mr. WALSH. Mr. Chairman, don't tell him that.

Mr. SCHWEIKERT. I'm sorry. I'm the guy from out of town. Okay? Did I mention all the sales tax revenue?

Mr. WALSH. Yes.

Mr. SCHWEIKERT. In all sincerity, I'm doing my best to collect something beyond those examples, sort of regulatory examples, so I can sort of ferret into it where regulatory policy needs to go so we stop creating this sort of uncertainty and this sort of wake of damage that comes with this sort of policy, so thank you, Mr. Chairman.

Mr. SCHMITT. We have used the term a lot, "performing loan," a performing loan, and there's no credit for a performing loan anymore.

Many times, with some of these rules and regulations, the performing loans are forced into noncompliance and they can't perform anymore so we have seen the example that you have used and everything throughout our community with a number of people.

Chairman BACHUS. Adam?

Mr. KINZINGER. Thank you, Mr. Chairman, and thank all of you for coming out. And those in the audience, thank you for coming out as well and taking an interest.

And specifically, Mr. Ohlendorf and Mr. Roolf, as district residents, it's great to have you here.

I want to say that one of the things I have seen in just the 10 or 11 months I have been in Congress now is, I get people from all over the place coming in and talking about this thing, Dodd-Frank, and talking about how it's going to affect them. And this is to the level of what I never expected when I went to Congress.

I have had people who run grain elevators come in and talk to me about the impact that Dodd-Frank is going to have on their business and people from all walks of life. It's like this is a monster that really has its hands in places you never would have imagined. I wouldn't be surprised if a little league team doesn't come in and start talking about how it affects their life.

But, in the process of all this, we're trying to find that balance between too much government regulation, which freezes up the system and continues to stagnate the economy, and no government regulation, which also is bad for the economy, and we saw to an extent in the past what no government involvement or no regulation has done, so we're trying to find that.

But let me just—I want to get more of a 10,000-foot view on this because we have had a lot of good discussion here, and I'm not going to take my time just to take it, but as regulators are implementing Dodd-Frank, as they're coming in, they're barely even making a mark so far on what needs to be done, but as that is being implemented, if you could give these folks who are implementing it one takeaway of one thing to keep if mind as they're building this up, what would it be? What would be—I'll just go down the line.

What would be from each of you the one thing that you would love to tell these folks?

Mr. OHLENDORF. Congressman, it is good to see you.

What we would like to see is that the community bank business model be taken into consideration while these rules are being written.

I think in real life, there is an opinion on Dodd-Frank in a number of places regarding the difference between large banks systemically and more financial institutions and community banks, and you see it littered in the bill, in the law now, and there are places where community banks were given some exceptions and carveouts.

There are also a lot of places in the rule-writing process where that can also take place, and I think there has been given some rope in order to craft the law and write the rules in such a way that community banks are considered and are considered as being different.

And again, we have all said how many times that we didn't create it and we're different and we serve a different market.

I think every time there's a rule written, the folks who are writing the rule, whether it's an agency or whether it becomes another piece of legislation, we have to consider the impact on community banks, we have to consider how the rule could be written so that it has the appropriate impact on those who need to have the impact and no inappropriate impact on those who are just sort of left as collateral damage.

Mr. KINZINGER. Thank you.

And the rest of you, I also want you to keep in mind that some of these rules are going to span multiple agencies, and that can be a situation that's going to be even more difficult and more confusing.

Mr. BATES. I would echo what Mr. Ohlendorf said, and I would like the regulators to remember that even though there may be exemptions for community banks on certain things, a lot of the regulations that will go into place will then turn around and be used as best practices that over time, community banks will have to adhere to, and again, the cost of implementing these best practices as well as the actual regulations that we have to comply with come around them.

Mr. KINZINGER. It also takes out of the—it seems like from what I hear from folks, this is going to take out of the community bank process the ability to make a decision based on you are part of that community, you know somebody, you know their history. Beyond just what you see on paper, it's maybe the experiences that you have, and I think maybe that's a touch that community banks have that big banks don't.

Mr. Roolf?

Mr. ROOLF. They clearly have that issue.

Have you ever closed a business and then walked into the same supermarket, the same aisle with the individual you put out of business? I can tell you it isn't fun.

I think as we look at all of the regulation that's out there, if I could do one thing in this whole great scheme, it would be to make sure that people understand that we are not trying to eliminate regulation; we just want it to be done in a consistent and rational fashion.

Now, that may be one large, large task to accomplish as we look at the myriad of regulation that's out there already. Some have clearly outlived their usefulness.

So if we could look at—if I could have one thing, it would be to look at what we have eliminated and establish what's appropriate and practical in today's environment.

I will restate it. We are not for eliminating regulation. We are for making sure that it's well-thought-out, practical, and something that is consistently applied throughout our industry.

Mr. KINZINGER. Mr. Renn?

Mr. RENN. I believe you used that phrase "the 10,000-foot view," and Dodd-Frank is really just it's an add-on to rules that we have now, and I think that my point of my testimony is that you can accomplish things and that substance over form and Mr. Ohlendorf's comment about have things applicable to what we're in business for.

Our balance sheet is a little bit different than our business model is a little bit different than the other witnesses, but that's my biggest take on it is that you have to have rules and policies, procedures and you're examined for things that are applicable to your business, that we don't feel that we're—we feel that we're micromanaged.

Mr. KINZINGER. For the next three, I'll have to ask you to keep it real brief. We're up against time.

Mr. SCHMITT. Mine would be basically you cannot write rules and regulations for one-size-fits-all. We have different size banking, and we have different size businesses. There has to be some flexibility coming into account, some judgment calls when dealing with these various businesses and organizations.

Chairman BACHUS. Ms. Rand?

Ms. RAND. I think the CFPB should continue to do what it started, which is to create evidence-based policies based on input from consumers, from the industry, from the general public, and take all that information, look at real facts and then create—I agree with Jim—practical, consistently-applied policies that protect consumers.

Mr. KINZINGER. Thank you.

Mr. Palmer?

Mr. PALMER. And I would say that Dodd-Frank levels the playing field between the big banks, community banks and the previously-unregulated others so I think in the long term, leveling the playing field is actually good for community banks because the foreclosure crisis happened because big banks and unregulated lenders were able to make really risky loans that the community banks didn't, and because of that, they captured more market share so eliminating that situation, again, is good for consumers and is good, again, for community banks.

Mr. KINZINGER. Thank you, sir. Mr. Chairman, thank you again. And a special thanks to Mr. Schweikert.

Chairman BACHUS. Mr. Palmer, one thing. You're correct what you have said of unregulated and subprime lenders.

Some of the large regulated banks bought unregulated subprime lenders. They were actually a sub—they were an unregulated affiliate. And we actually changed that in a subprime lending bill about a year before Dodd-Frank, and it included provisions which I had written and introduced in 2005.

But you're right, the big banks sort of fooled us when we would say, are you doing this, no, but the story was they were doing it in their unregulated affiliates.

So once bitten, twice shy, but yes, they were coming in the back door.

Mr. WALSH. Thank you, Mr. Chairman. I'll be very brief.

A couple of questions for our four bankers. And Mr. Ohlendorf, let me go off of your analogy.

In attacking the cancer, did Dodd-Frank kill the body, or would you describe it as a whole as surgical precision? If the four of you could give a concise answer to that?

Mr. OHLENDORF. It was clearly a mixed bag, and the jury is still way out.

There were certain things inside the deposit insurance reform, and the raising of the deposit insurance limits was very important in the community banks, there's no question.

There are so many—I think the statistic was 28 percent of the rules actually haven't been written and the scope and size of the legislation is very, very challenging. The interchange is going to be a big problem. There are a lot of things that came into the bill that are going to be a big problem.

We knew it would have been naive to suggest that a bill of this sort wouldn't have come out, but Congressman, unfortunately, I think the jury is still out on a lot of it.

We're very concerned about how CFPB gets done, and to talk about what Chairman Bachus was suggesting, the unregs are still unregulated. There is nobody who is able to go after those folks so that piece of carveout that was written, I'm sure, at 3 a.m., was pretty clever, and those folks are still unregulated.

So all the unregs and the CFPB right now affect all of us here at the table, and the ones that we were most concerned about that were in my analogy of cancer are still out there without any regulation. So it's going to take a lot to see how that all gets reined in, and I'm going to leave the verdict out there for now.

Mr. WALSH. Mr. Bates, did your government kill the body, or was it surgically precise?

Mr. BATES. To extend the analogy, community banks, for the most part are the healthy tissue in the body, and we want to ensure that the solution does not further endanger the healthy tissue and does work to root out the cancer so we're essentially hoping that the regulators and the government will be very prudent in what they do and enact regulations that will protect consumers without raising the costs and the risks to community banks to do business.

Mr. WALSH. Mr. Roolf?

Mr. ROOLF. Congressman, we had an opportunity to meet with some of our regulators in Washington during the month of September. In a couple of instances, at the very highest level within those regulatory agencies, it was suggested to us that Dodd-Frank would not differentiate between the very largest and the very smallest, even though there are some thresholds identified or embodied within that legislation.

And further, they used the health care analogy of, you break your arm, you go to the hospital, and they treat you with radiation and chemo, and you die. That's essentially what they told us Dodd-Frank would do, and it was startling to me that regulators would be really that candid, but I think that's the concern that's out there.

Think of driving—and all of us have revelations from time to time. I had one the other night.

I was driving on the interstate, and it was a crystal clear evening, and I was thinking about Dodd-Frank and thinking about today and the things I would say and more importantly not say. And it dawned on me that I was driving 65 miles an hour on a moonlit night. The road was clear so I was able to keep doing my business, if you will, without any question.

All of a sudden, I hit a wall of dense fog, and I'm driving and I'm thinking somebody's behind me, in front of me, I don't know if they're on the other side of the road or directly in front of me, coming from the side or coming right side or left side. All of a sudden, I'm in a fog, and I'm not really sure what to do.

I think that's what Dodd-Frank has done in many respects to our industry because there are so many unknowns in this process—28 percent of it has been—the rules have been developed. There are 4,000 pages for 28 percent. That's 4,000 pages on top of Regulation A through QQ plus all of the other Acts that I have referred to.

It's an inordinate amount of business and regulation that has been placed on an industry where, quite frankly, consumers have many options. And if we don't do our job and do it effectively, that customer is going to say, "Jim, I'd like to bank with you, but because of "X," I'm going somewhere else, because they do it a little better than you and a little less expensive."

So I guess I would encourage all of the Members of Congress to understand that while we need to make sure that we are protecting the consumer, don't underestimate the intelligence of the American consumer. They're pretty good at it.

Mr. WALSH. Mr. Renn?

Mr. RENN. Being the fourth person, I don't think I can add that much more to what has been said. The only thing that I might think of is when we have an exam, the examination team oftentimes quarrel among themselves about certain things, their viewpoint on certain things.

And so when this is all sorted out, I guess one thing I would like for you to think about, for us to think about, is that when you're examined, whatever this monster would look like at the end, will the people who are looking at you have uniform application of the law, will they understand it, and will they agree among themselves on certain aspects that they're looking at?

Mr. WALSH. Again, just being a freshman in Congress, that's probably my biggest frustration with this job is you have described it as a monster. We know it's a monster. We're not quite clear what it's going to look like yet, but we tend to create these monsters, and then we scramble for the next few years to try to make that monster look like something, but it's still a monster.

I'm going to try to pin you down on it for a yes-or-no answer. This monster, if you go back a day before Congress approved Dodd-

Frank in toto, if this entire bill was plopped in your lap a day before the previous Congress passed it, would you have advised us to vote yes or no on the entire package? Yes or no?

Mr. Renn, I will start with you.

Mr. RENN. No.

Mr. WALSH. Mr. Roolf?

Mr. ROOLF. No.

Mr. WALSH. Mr. Bates?

Mr. BATES. No.

Mr. WALSH. Can you top that, Mr. Ohlendorf?

Mr. OHLENDORF. I don't know what to do with that. There's no good answer to that, Congressman. I'm sorry.

Mr. WALSH. Mr. Chairman, thank you.

Chairman BACHUS. Thank you.

This concludes our hearing.

I want to say this: Consumers were abused, and the regulators did not do their job in protecting consumers in many cases, and so the American people were, I think, sometimes traumatized and demanded action.

We did have a credit card boom, we had a subprime boom, and we had Dodd-Frank, and there are parts of Dodd-Frank, the Stability Oversight Board, that could—I think could be beneficial.

And if the Consumer Financial Protection Bureau would spend its time on going after the bad actors, I will say Elizabeth Warren did state almost every time she spoke that she wanted to go after the unregulated bad actors. And we know they're there, we know we have been there, and the bank regulators don't have jurisdiction over them, and I think there could have been a better solution.

And another thing that happened, not only did the banks buy unregulated affiliates, some of them, not your entities, but they also padded these securitizations and sold them to the American people, and so they are—but the community banks are the victims of someone else's malfeasance and misconduct.

But we appreciate your time and we appreciate all of the views, and by having everyone's views, I think we're better off for it.

[Whereupon, at 11:17 a.m., the hearing was adjourned.]

APPENDIX

December 5, 2011

Testimony of William Bates, Jr.

U.S. House Committee on Financial Services

On behalf of the

National Bankers Association

Before the

Committee on Financial Services

United States House of Representatives

December 5, 2011

Chairman Bachus, Ranking Member Frank and members of the committee, my name is William Bates, Jr. I am the Executive Vice President and General Counsel of Seaway Bank and Trust Company, in Chicago, Illinois. We are a $621 million commercial bank with 11 offices and 315 employees. We are a member of the Illinois Bankers Association. We serve the Chicago area, with a population of approximately 4 million people. We also have a branch in Milwaukee, Wisconsin.

We support numerous churches, schools and community groups through charitable donations, and thanks to our partnerships with leading corporations, we are able to reinvest in our family of customers and local businesses. Our mission remains to help minority professionals and entrepreneurs obtain financial assistance they need, and to be responsive to the credit needs of our local communities.

Thank you for convening this important hearing in Illinois. I appreciate the opportunity to present my views about the current regulatory environment on behalf of the National Bankers Association. The National Bankers Association was founded in 1927 as the trade association for the nation's minority and women-owned banks (MWOBs). Our members include banks owned by African-Americans, Native-Americans, Hispanic-Americans, Asian-Americans, and Women.

MWOB's are located in 21 states and the District of Columbia. In the aggregate, MWOBs have assets in excess of $8.8 billion dollars and service over 1.5 million depositors. Collectively, the individuals who serve on the boards of directors of our member banks represent some of the most influential leaders in minority communities and urban centers across the country. Since 1980, the NBA has formed a successful partnership with Treasury representatives of Fortune 500 corporations.

MWOBs, with few exceptions, serve distressed communities plagued by many social and economic problems. Our institutions are deeply committed to providing employment opportunities, entrepreneurial capital and economic revitalization in neighborhoods which often have little or no access to financial services.

Like Seaway Bank and Trust Company, banks everywhere are working hard to provide quality financial services and to make credit available—especially in this challenging economy. Yet, we are feeling more pressures from our regulators than ever before, posing unprecedented obstacles to serving our customers and lending at a time when our communities need us more than ever before.

All of the costs, complexities and time associated with monitoring, managing and complying with the current regulatory landscape are handicapping most banks' ability to do what they do best—serving customers, local communities, and many local organizations who rely on banks for help.

Each new rule requires significant time and money and builds upon volumes of existing regulations. This is putting an enormous strain on our staffs, and for community banks, which are disproportionately affected due to their more limited resources, diminishing revenue streams, and with limited access to capital—it is becoming a nearly insurmountable burden.

When you add to this the more than two dozen proposals established under Dodd-Frank for a whole new class of regulation – mostly to be issued by yet another regulator– combined with the uncertainty and legal risks—it is plain to see how difficult it can be to achieve the right balance between satisfying loan demands and regulatory demands.

At Seaway we have seen a significant increase in costs in order to meet regulatory demands over the last ten years. We have had to devote significant resources to comply with the Bank Secrecy Act. We currently have three people who spend all of their time on the Bank Secrecy Act, anti-money laundering, and overall regulatory compliance and at least three more individuals who spend up to 25% of their time on regulatory compliance, not to mention the individuals throughout the Bank who serve on the Compliance Committee

Historically, the cost of regulatory compliance as a share of operating expenses is two and one-half times greater for small banks than for large banks. The expenditures that our bank has incurred take away from the resources that can be directly applied to serving the bank's community.

While there are many examples of the costs associated with regulation, I would like to highlight some of those associated with residential mortgage loans.

The application process has changed several times with new HUD regulations and RESPA requirements. The process for ordering and reviewing appraisals has become more cumbersome and involved. The extra forms that are required with early disclosures, along with having to register and fingerprint mortgage loan officers, not only adds to the costs associated with this type of lending, but it creates delays, additional costs and confusion for borrowers. A typical mortgage file, today, will have more than 100 pages by the time the loan is closed.

Every new regulation, or change in an existing one, adds another layer of complexity and cost of doing business. Without quick and bold action to relieve some of the regulatory burden, there will be a contraction of the banking industry, with banks disappearing from communities over the next few years. Each bank that disappears from the community makes that community poorer.

What could Congress do?

As other witnesses have suggested, we urge you and other members of Congress to make sure that our regulators are measuring the cumulative effect of all of the rules-current and future—with which traditional banks must comply. It is critical that the perceived benefits of each rule be weighed against its ultimate costs to a bank's customers—including the costs that it adds to a particular product or service, as well as its impact on the availability of and access to those products and services.

In addition, we know that you have heard many suggestions about how to reverse some of the potential or perceived threats of the Consumer Financial Protection Bureau (CFPB). While we are pleased that Dodd-Frank allows community banks with less than $10 billion in assets to continue to be examined by their primary regulator, we remain concerned about CFPB regulations, to which community banks will be subject. In particular, the CFPB should not implement any rules that would adversely affect the ability of banks to customize products to meet the needs of their customers.

In addition, because bank regulators have long expertise in balancing the safety and soundness of banking operations with the need to protect customers, we hope that prudential regulators will have a more meaningful role in writing rules for CFPB.

Members of the National Bankers Association along with the entire banking industry are trying to do their best to provide necessary financial services and credit to the thousands of consumers and small businesses who need it, and we are working exhaustively with those businesses who are struggling in our community. However, we need Congress' help!

We want to work with you and our Members of Congress to restore the viability of our local communities and or state.

Again, thank you for the opportunity to hear our views about the current environment and its impact on Illinois and our communities.

INDEPENDENT COMMUNITY
BANKERS of AMERICA

Testimony of

Greg M. Ohlendorf
President & CEO
First Community Bank and Trust

On behalf of the

Independent Community Bankers of America

Before the

United States House of Representatives
Committee on Financial Services

Field Hearing on

"Regulatory Reform: Examining How New Regulations are Impacting Financial Institutions, Small Businesses, and Consumers in Illinois"

December 5, 2011
Chicago, IL

OPENING

Chairman Bachus, Ranking Member Frank, and members of the Committee, I am Greg Ohlendorf, President and CEO of First Community Bank and Trust, a $150 million asset community bank in Beecher, Illinois. I am pleased to be here today to represent the nearly 5,000 members of the Independent Community Bankers of America. Thank you for convening this hearing on "Regulatory Reform: Examining How New Regulations are Impacting Financial Institutions, Small Businesses, and Consumers in Illinois." It's good to see the Committee convene here in Chicago to get a first hand view of our region's economic conditions and to discuss the impact of the legislation and regulation enacted in Washington.

We appreciate your interest on the impact that new regulations have had on financial institutions, including community banks. Community banks are the primary source of credit, depository, and other financial services in thousands of rural areas, small towns, and suburbs across the nation. As such, we will play an essential role in the recovery of our national economy. Regulatory and paperwork requirements impose a disproportionate burden on community banks thereby diminishing their profitability and their ability to attract capital and support their customers and communities. The time they spend on the myriad of new laws and regulations is time that cannot be spent working with small business and consumer borrowers who are trying to work their way out of the difficulties they have suffered through in the recent economic downturn.

The predominant, though not the exclusive, source of new bank regulation is the Dodd-Frank Act, and I will focus my remarks on that new law. This Act was generational legislation and will permanently alter the landscape for financial services. Every provider of financial services – including every single community bank – will feel the effects of this new law to some extent. The community bank business model is based on the strength of our reputation in the small communities we serve and in the long-term customer relationships we cultivate. Community banks don't engage in abusive consumer practices and did not cause the financial crisis, and we appreciate the support our industry received to shield us from some of the provisions designed to respond to the crisis. Because we pose no risk to consumers or the financial system, the manner in which we are regulated should be distinct from that of large banks and Wall Street firms. Regulation calibrated to large bank risks and business models can suffocate smaller banks and thereby harm the communities we serve.

What's the impact of the Dodd-Frank Act on community banks? It has proven to be a mixed outcome, combining both punitive and helpful provisions. A law this broad, disparate, and multi-dimensional cannot be easily characterized. Undeniably, the law will result in additional compliance burden for community banks and it will be challenging for them to cope with. The full and ultimate impact won't be known for years, depending on how the law is implemented and how the market adjusts to it. There's still an opportunity to improve negative provisions in the law – with the help of this committee and Congress – and provisions that could be helpful to community banks are still at risk of being weakened in the implementation.

It is also important to note that while I will focus my remarks on the Dodd-Frank Act, the Act was just one of a number of legislative and regulatory responses to the nation's financial crisis and resulting recession. The harsh examination environment and changes to credit card and overdraft protection rules, for example, have had a profound impact on community banks. With those caveats, let me turn to the specific provisions of the Act, beginning with our concerns.

Consumer Financial Protection Bureau

While we are pleased that the Dodd-Frank Act allows community banks with less than $10 billion in assets to continue to be examined by their primary regulators, ICBA remains concerned about CFPB regulations, to which community banks will be subject. ICBA strongly opposed provisions in the Dodd-Frank Act that excluded the prudential banking regulators from the CFPB rule-writing process. Bank regulators have long expertise in balancing the safety and soundness of banking operation with the need to protect consumers from unfair and harmful practices.

The Act gives the prudential regulators the ability to comment on CFPB proposals before they are released for comment and an extremely limited ability to veto regulations before they become final. This veto can only be exercised if, by a 2/3 vote, FSOC determines that a rule "puts at risk safety and soundness of the banking system or the stability of the financial system". This is an unreasonably high standard and one that should be amended.

ICBA strongly supported legislation passed by this Committee and the House to strengthen the accountability of the CFPB. The Consumer Financial Protection Safety and Soundness Improvement Act (H.R. 1315), sponsored by Rep. Sean Duffy (R-WI), would reform the structure of the CFPB so that it is governed by a five member commission rather than a single director; strengthen prudential regulatory review of CFPB rules by reforming the voting requirement for an FSOC veto from a 2/3rd vote to a simple majority, excluding the CFPB Director, and change the standard to allow for a veto of a rule that "is inconsistent with the safe and sound operations of United States financial institutions" – a much more realistic standard than under current law. Additionally, H.R. 1315 would postpone transfer of functions to the CFPB until its Director is confirmed. Combined, these changes would better protect the safety and soundness of the financial system, and provide reasonable measures to insulate community banks from additional regulatory burden.

Community banks are already required to spend significant resources complying with voluminous consumer protection statutes. CFPB rules should not add to these costs. The Dodd-Frank Act gives the CFPB authority to exempt any class of providers or any products or services from the rules it writes considering the size of the entity, the volume of its transactions and the extent to which existing law already has protections. ICBA urges the CFPB to use this authority to grant broad relief to community banks and/or community bank products where appropriate.

Risk Retention

Community banks make commonsense mortgages supported by sound, conservative underwriting. As the banking regulatory agencies implement Section 941 of the Dodd-Frank Act, which requires mortgage originators to retain credit risk on non-qualified residential mortgages, ICBA strongly urges them not to define "qualified residential mortgage" too narrowly. An unreasonably narrow definition of QRM will drive thousands of community banks and other lenders from the residential mortgage market, leaving it to only a few of the largest lenders. Too narrow a definition will also severely limit credit availability to many borrowers who do not have significant down payments or who, despite high net worths, have relatively low incomes and high debt-to-income ratios. In ICBA's view, the definition of QRM should be relatively broad and encompass the largest portion of the residential mortgage market, consistent with the stronger underwriting standards called for by the Act. An unduly narrow definition of QRM will disadvantage community banks because they lack access to the increased capital needed to offset risk retention requirements, despite conservative underwriting. What's more, community banks operating in rural areas will be driven out of the market by Farm Credit System direct lenders who carry an exemption for the loans or other financial assets that they make, insure, guarantee or purchase.

Escrowing for taxes and insurance would be costly for small lenders

The Act's new mortgage escrow requirements will be costly to our members. Rural customers have unique credit needs, collateralized by rural properties, which do not lend themselves to securitization. As a result, community banks that serve rural customers tend to hold loans in portfolio, where the lender is exposed to the entire credit risk of the borrower for the full term of the loan. They not only have "skin in game," but bear the full risk of default. For this reason, portfolio lenders exercise special diligence in underwriting, and we believe that portfolio loans held by banks with assets of less than $10 billion should be exempt from the requirement that first lien mortgage lenders establish escrow accounts for the payment taxes and insurance. There is a significant cost involved with establishing escrow accounts, particularly for community banks that have small lending volumes, and many community banks would need to outsource their escrow services at a significant cost. The costs are such that an escrow requirement could lead many community banks to sharply reduce or eliminate their mortgage businesses.

Community Banks Must Be Able to Rely on Credit Rating Agencies

The Dodd-Frank Act requires the regulatory agencies to replace all references to "credit ratings" with an "appropriate" standard for measuring creditworthiness. Community banks, lacking the resources to independently analyze credit quality, will be disproportionately affected by this provision.

As an alternative approach that addresses the legitimate concern with credit ratings, ICBA recommends amending Dodd-Frank to reintroduce the use of credit ratings, but also give the regulators the authority to confirm the credit ratings in those situations where additional credit analysis is warranted.

Municipal Advisor Registration

Another concern for community bankers is the Dodd-Frank Act municipal advisor registration requirement. Community banks have always provided traditional banking services such as demand deposits, certificates of deposit, cash management services, loans and letters of credit to the municipal governments of the communities they serve. Community banks provide these services under close supervision by state and federal bank regulators. The Dodd-Frank Act provision, if interpreted broadly by the SEC, could force thousands of community banks to register as municipal advisors with the SEC and the Municipal Securities Rulemaking Board and be examined by the SEC in order to continue providing traditional banking services to municipalities. An act as simple as a town treasurer phoning a community bank to inquire about CD rates could be enough to trigger registration. ICBA strongly supports legislation introduced in the Senate, the Private Company Flexibility and Growth Act (S. 1824), sponsored by Senators Pat Toomey (R-PA) and Tom Carper (D-DE), to provide an exemption for banks from this onerous and over-reaching requirement.

ICBA-SUPPORTED PROVISIONS

In representing our members during consideration of the Dodd-Frank Act, ICBA focused on making the Act workable for community banks. This meant seeking exemptions where appropriate. It also meant seizing the opportunity to advocate for long-sought community bank priorities. I will now turn to the provisions of the Act that ICBA supported and that we believe will strengthen community banks over the long term.

Tiered Regulation

First, the Act sets a precedent for tiered regulation of the financial industry. Community banks have little in common with Wall Street firms, mega-banks, or shadow banks and did not cause the financial crisis or perpetrate abusive consumer practices. Community banks have a much different risk profile because their business model is built on long-term customer relationships, and they cannot succeed without a reputation for fair treatment. For these reasons, ICBA believes it's appropriate to tier regulation of the financial services industry. Overly prescriptive regulation would only reduce community banks' flexibility in serving the unique needs of their customers. Moreover, regulation has a disproportionate impact on community banks because they have fewer resources to dedicate to compliance. We are pleased that Congress recognized these facts and our priority during the implementation phase is to press the regulators to carry through on the Act's clear preference for tiered regulation. We will also urge the regulators to use the flexibility they have under other statutes to implement a tiered regulatory system.

Deposit Insurance

ICBA was a leading advocate for the deposit insurance provisions of the Act, including the change in the assessment base from domestic deposits to assets (minus tangible equity), which will better align premiums with a depository's true risk to the financial system. This provision has reduced my bank's FDIC assessment by 25%, and will save all community banks $4.5 billion over the next 3 years.

The Act also permanently increased the deposit insurance limit to $250,000 per depositor and provided a two-year extension of the Transaction Account Guarantee (TAG) Program, which provides unlimited deposit insurance coverage for non-interest bearing transaction accounts. Both of these provisions will help to offset the significant advantage enjoyed by the too-big-to-fail mega-banks in the cost of their deposits.

Too Big To Fail

ICBA has long expressed concerns about too-big-to-fail banks and the moral hazard they pose, well before the financial crisis. A report in last week's Bloomberg Markets Magazine on the financial assistance provided by federal regulators to the nation's largest and riskiest financial institutions at the height of the recent financial crisis vividly demonstrates the hazard and the bitter unfairness of allowing some banks and other financial firms to accumulate such power. Trillions of dollars in secret Federal Reserve Board "no strings attached" loans at rates as low as 0.01% allowed these too-big-to-fail institutions to net $13 billion in additional profits. Community banks are more finely tuned to these concerns because we and our customers feel the direct impact. It's challenging for us to compete against mega-banks whose TBTF status gives them funding advantages. For this reason, we're pleased that the Act takes steps to mitigate TBTF.

ICBA supported the creation of the Financial Stability Oversight Council (FSOC) whose duties include identifying and responding to risks to financial stability that could arise from the failure of a large, interconnected bank or nonbank. We also support the FDIC's new resolution authority that will empower it to unwind large, systemically-risky financial firms. The government must never again be forced to choose between propping up a failing firm at taxpayer expense and allowing it to fail and wreak havoc on the financial system.

These and other provisions will help level the financial services playing field.

Regulation of "Shadow" Bank Competitors

ICBA is pleased that non-banks will be subject to federal examination and enforcement for the first time. The "shadow" financial industry has been most responsible for victimizing consumers while avoiding serious regulatory scrutiny. This segment of the financial services industry should be brought under the same regulatory umbrella as commercial banks. As I mentioned earlier in this testimony, under Dodd-Frank, the

CFPB has discretion in defining non-depository "covered persons" subject to CFPB rules, examination and enforcement. ICBA urges the CFPB to define "covered persons" broadly.

SOX 404(b) Relief

The Act permanently exempts public companies with capitalization of less than $75 million from the auditor attestation requirements of SOX 404(b). ICBA has led the fight to exempt smaller public companies since SOX was enacted in 2002. However, the $75 million exemption threshold is far too low to provide meaningful relief. We are grateful to this committee for passing legislation sponsored by Rep. Stephen Fincher (R-TN), the Small Company Job Growth and Regulatory Relief Act (H.R. 3213), which would exempt all companies with a market capitalization of less than $350 million.

Communities First Act

Many of the legislative ideas highlighted in this testimony have been included in the Communities First Act (H.R. 1697), legislation sponsored by Rep. Blaine Luetkemeyer (R-MO), himself a former community banker, which has over 55 cosponsors from both parties and the strong support of 37 state banking associations. ICBA is grateful to this committee for convening a hearing on CFA on November 16 at which our Chairman had the opportunity to testify. In addition to Dodd-Frank Act amendments, CFA includes a range of provisions that would offer regulatory and tax relief to community banks.

CLOSING

Thank you again for the opportunity to testify today. Like most pieces of legislation, especially those that run to 2,300 pages, the Dodd-Frank Act is a mixed outcome for community banks. I hope that my testimony, while not exhaustive, helps to clarify some of the concerns as well as the bright spots in the Dodd-Frank Act for community banks. Legislation of this breadth and ambition will generally need some modifications or enhancements, and we look forward to working with this committee to improve the law and to ensure that it is implemented in a way that will impose the least burden on community banks.

Testimony of Bob Palmer, Policy Director, Housing Action Illinois
Field Hearing of the House Financial Services Committee
"Regulatory Reform: Examining How New Regulations are Impacting Financial Institutions, Small Businesses and Consumers in Illinois"
Chicago, Illinois
December 5, 2011

My name is Bob Palmer. I'm Policy Director for Housing Action Illinois. Thank you for inviting me to provide my perspective on how new regulations required under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 are impacting financial institutions, small businesses and consumers. Personally, I have over 20 years experience in affordable housing organizing, advocacy, training, and finance.

Housing Action Illinois is a statewide coalition formed to protect and expand the availability of quality, affordable housing throughout the state. One of our programs is to provide training and technical assistance to HUD-certified housing counseling agencies. Since the beginning of the foreclosure crisis we've also worked with counseling agencies and others to advocate for public policy responses to better assist homeowners facing foreclosure and return health to the housing market, one of the most important things needed to improve the economy and create jobs.

This work is far from done. More than 46% of all single-family homes with a mortgage in the Chicago area were underwater in this year's third quarter, far more than the nation as a whole. Nationally, 28.6% of homes with mortgages were underwater at the end of September; 43.4% of all homes sold in the Chicago area in the third quarter sold for a loss, compared to 34.4% nationally.[1]

A new report from the Center for Responsible Lending finds that we are not even halfway through the foreclosure crisis. Among homeowners who received loans between 2004 and 2008, 2.7 million households, or 6.4%, had already lost their homes to foreclosure as of February 2011. An additional 8.3%—3.6 million households—were still at immediate, serious risk of losing their homes.[2]

Supporting the case for more regulation of the mortgage market, the report also found that loan characteristics and foreclosures are strongly linked. The study examines outcomes on different loan types and finds a pattern of higher foreclosures and delinquencies associated with specific mortgage characteristics. Loans originated by brokers, hybrid adjustable-rate mortgages ("ARMs," such as 2/28s), option ARMs, loans with prepayment penalties, and loans with high interest rates (a proxy for subprime mortgages) all have much higher rates of completed foreclosures and are more likely to be seriously delinquent.

The Right Amount of Regulation

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[1] "Home Values Flat in Third Quarter on Slow Road to Housing Market Bottom." Zillow.com, 11/07/11

[2] "Lost Ground, 2011: Disparities in Mortgage Lending and Foreclosures." Center for Responsible Lending, November 2011.

A fundamental question which we know there is a great deal of disagreement about is whether the foreclosure crisis was the result of too much or too little regulation. Many people have unfairly tried to blame the Community Reinvestment Act for the crisis, but a February 2009 Federal Reserve Board study showed that 94% of the high cost subprime loans sold nationwide in 2006 were issued by lenders who were not covered by CRA regulation.[3]

We believe that if the regulatory provisions in the Dodd-Frank Act had been in place back in 2006, the housing market and the overall economy would be much healthier today. Some of these provisions to be implemented include:

- Require Lenders Ensure a Borrower's Ability to Repay: Establishes a simple federal standard for all home loans: institutions must ensure that borrowers can repay the loans they are sold.
- Prohibit Unfair Lending Practices: Prohibits the financial incentives for subprime loans that encourage lenders to steer borrowers into more costly loans, including the bonuses known as "yield spread premiums" that lenders pay to brokers to inflate the cost of loans. Prohibits pre-payment penalties that trapped so many borrowers into unaffordable loans.
- Establishes Penalties for Irresponsible Lending: Lenders and mortgage brokers who don't comply with new standards will be held accountable by consumers for as high as three-years of interest payments and damages plus attorney's fees (if any). Protects borrowers against foreclosure for violations of these standards.
- Expands Consumer Protections for High-Cost Mortgages: Expands the protections available under federal rules on high-cost loans—lowering the interest rate and the points and fee triggers that define high cost loans.
- Requires Additional Disclosures for Consumers on Mortgages: Lenders must disclose the maximum a consumer could pay on a variable rate mortgage, with a warning that payments will vary based on interest rate changes.
- Housing Counseling: Establishes an Office of Housing Counseling within HUD to boost homeownership and rental housing counseling.

One part of the Dodd-Frank law that the Consumer Financial Protection Bureau (CFPB) has begun to implement is "Know Before You Owe", an effort to combine two federally required mortgage disclosures into a single, simpler form that makes the costs and risks of the loan clear and allows consumers to comparison shop. Once this is completed, this will benefit both consumers and lenders.

In short, I think that it's hard to make the case that the new regulations will have a negative impact on job creation, put significant burdens on small financial institutions or lessen the ability of lenders to make mortgage loans. In the long-term, the new regulations should have a positive impact in all these areas, provide a more level playing field between different types of lenders, remove some of the problematic incentives in

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[3] "Staff Analysis of the Relationship between the CRA and the Subprime Crisis." Board of Governors of The Federal Reserve System Division of Research and Statistics, 11/21/2008.

the mortgage market that led to the foreclosure crisis in the first place, and give consumers more tools to make informed decisions about taking out a mortgage loan.

Dodd Frank Regulations Level Playing Field for Small and Community-Based Lenders

The experience of HUD-certified housing counseling agencies in Illinois has been that the overwhelming majority of predatory loans were made by bigger banks and unregulated nonbank lenders. Moreover, it is the big banks that are generally much harder for borrowers to work with in the case of default. Before the housing bubble burst, the lack of regulation gave the big banks and unregulated nonbank lenders unfair competitive advantages against small and community-based lenders, which were generally more responsible in their lending.

The Dodd-Frank Act authorizes the CFPB to examine all sizes of nonbank mortgage companies, payday lenders, and private education lenders. However, the CFPB generally can supervise only "larger participants" in other markets for consumer financial products or services, and the CFPB must define such larger participants by rule before it can begin its nonbank supervision program in these other markets. Under the Dodd-Frank Act, the CFPB must issue an initial "larger participant" rule no later than July 21, 2012.

That CFPB will be able to examine companies that have never been subject to federal oversight to ensure that no one is gaining an unfair advantage by breaking the law. This will ultimately create more fair competition and more transparent markets for consumers.

We hope that the Senate will act quickly to confirm the President's nominee to lead the CFPB so that this important work can move forward.

Testimony of Dory Rand

U.S. House of Representatives, Committee on Financial Services

Field Hearing on "Regulatory Reform: Examining How New Regulations are Impacting Financial Institutions, Small Business, and Consumers in Illinois"

Chicago, Illinois December 5, 2011

I am Dory Rand, President of Woodstock Institute. Mr. Chairman and Members of the Committee, thank you for inviting me to share my perspective on financial regulatory reform. My perspective is based on working on behalf of lower-wealth persons and financial services consumers as president of Woodstock Institute and as an attorney with nonprofit organizations in Chicago for over 20 years. I served on the Federal Reserve Board's Consumer Advisory Council for the last two years. I also serve on the Board of Directors of the National Community Reinvestment Coalition. My bio contains additional background information.

Woodstock Institute's mission is to create a just financial system in which lower-wealth persons and communities of color can achieve economic security and community prosperity. We conduct research and policy analysis on fair lending, wealth creation and preservation, and financial systems reform issues at the local, state and national levels. We work closely with other groups that provide direct lending, housing counseling, legal, and other services to consumers.

While I am sometimes critical of certain financial institution products and practices, I also have a history of partnering with banks of all sizes, credit unions, regulators and others to develop products, services, programs, and regulations that meet the needs of underserved consumers and communities. Representatives of banks and credit unions have served, and do serve, on Woodstock's board of directors and we receive grant support from many financial institutions.

Woodstock's research has documented the negative impacts of high-cost, high-risk financial products and deregulation in the home and consumer lending markets. We know from this research that the negative impacts -- high debt, foreclosures and neighborhood blight, damaged credit scores and bankruptcy – affect broad segments of society, but they are disproportionately concentrated among lower-wealth consumers, women, and communities of color. The negative impacts of the risky mortgage products that precipitated the foreclosure crisis, often sold through nondepository financial institutions beyond the regulatory sphere of the federal prudential regulators, extend far beyond those consumers who directly obtained loans. The negative impacts affect innocent victims, including nearby homeowners, small businesses, and communities that lost equity, customers, access to credit, jobs, and local tax revenue. Moreover, local governments have incurred additional expenses for inspections, legal notices, code enforcement, and protecting vacant and abandoned properties.

Our reports about these negative impacts on consumers and communities have been used to develop better, evidence-based policies to protect consumers and communities. For example, our reports were used: by the Illinois General Assembly to adopt payday loan reforms; by banks and federal regulators to change tax refund anticipation loan policies; and by the City of Chicago to pass an ordinance holding mortgage servicers accountable for maintaining vacant properties.

We believe that the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 contains important provisions and tools that will address many of the problems that led to the current foreclosure and economic crisis and will make our financial system more effective, transparent and fair for consumers, small businesses, and financial institutions. One of the key provisions requires additional oversight of financial institutions that pose systemic risks to our economy so that we do not again have to use taxpayer dollars to bail out "too big to fail" institutions.

Another key provision of the Dodd-Frank Act is creation of the Consumer Financial Protection Bureau (CFPB). Among other things, the CFPB consolidates functions that were formerly spread out among seven federal agencies and levels the playing field so that similar financial products will be governed by similar rules, regardless of the type of financial institution providing the product. The CFPB also has authority to conduct research, field consumer complaints, and develop new disclosure requirements so that consumers can better understand financial products and make wise decisions in a competitive marketplace. The CFPB is already doing a good job of using its authority to collect public input and draft new forms for clear disclosure of mortgage loan terms and to collect complaints regarding credit cards, for example. The CFPB has also conducted extensive outreach to the industry, consumer advocates, and others requesting comments on how to define "larger market participants" that will be subject to its authority.

As you know, many CFPB functions cannot be fully carried out until the Senate confirms a director. These functions include: prohibiting unfair, deceptive or abusive acts; writing rules related to model credit disclosure forms; defining larger nondepository institutions; and examining and enforcing laws against nondepository institutions such as mortgage brokers, payday lenders, student loan providers and others. We hope that the Senate will act quickly to confirm the President's nominee so that this important work can move forward.

Illinois residents are among those hardest hit by the foreclosure and economic crises. We need the Dodd-Frank Act and the CFPB to lessen the risk of future financial crises and to establish a safer and more accountable financial system that works for everyone. I ask that members of Congress refrain from weakening this law and agency and, instead, give them time to be fully implemented.

I look forward to working with you on these issues.

Testimony of James J. Renn
On Behalf of the Illinois League of Financial Institutions
Before the United States House of Representatives
Financial Services Committee
In Chicago, Illinois
December 5, 2011

Good Morning.

Chairman Bachus, Ranking Member Frank, and members of the House Financial Services Committee, thank you for holding this field hearing in Chicago and for allowing me to testify today.

My name is James J. Renn. I am the President and Chief Executive Officer of Lisle Savings Bank in Lisle, Illinois. Lisle is located 25 miles directly west of Chicago. Lisle Savings Bank has $524 million in assets with capital of just under $90 million. We are a mutual savings bank that was founded in Chicago in 1917 and moved to Lisle in 1959. We have two offices staffed by 58 full-time employees and 7 part-time employees. We were, since our founding, and remain yet today, a residential home lender that holds our mortgages in our portfolio.

I am also the immediate past chairman of the Illinois League of Financial Institutions which is a statewide trade association that serves the state's savings and community banking institutions. The League was founded in 1880 and its purpose is to serve the Illinois financial institution business and public interest by fostering thrift and homeownership and by sustaining and promoting the legislative, regulatory and business interests of its members.

A consistent theme emerges when I consider the thrift and bank members of the Illinois League of Financial Institutions. It may sound old-fashioned, but these members demonstrate hometown banking at its best. These are community banks where the officers, directors, and employees know their customers because they are their neighbors. These community-based thrifts and banks are more than community lenders; they are community leaders. In the lobbies of these member thrifts and banks, you will usually find the glass-walled office of the president within a few steps of the customer service areas – just like my office at Lisle Savings Bank. This connection of the primary officer of the thrift and bank to the people who are the depositors and borrowers of the institution is a link that has been lost in the "Wall Street" approach to finance. This link, however, is alive and well in cities and towns across Illinois and I know the Illinois League members will continue this tradition as our state and nation work through this recession and recovery.

I believe the focus and culture of our bank is visually reinforced by viewing our web site www.lislebank.com. On our home page, you see our motto "Every Person Counts." You will also see three rotating pictures. One picture is of a senior couple, another is a picture of a multi-generational minority family and the third one is of a young couple with their young boy. Our welcome mat is out for all local residents regardless of their income level or account balance. There is also a CEO Message to our customers explaining the differences among investment banks, national or regional institutions and community banks like Lisle Savings Bank. I draw your attention to the letter because its text is so representative of the members of the Illinois League of Financial Institutions and community banks across the country. I will read a few key sentences: "While the United States has approximately 7,700 banks with more than $13 trillion in assets and two million employees, most banks are really small businesses. The median size bank employs 37 people and has $154 million in assets. Three thousand banks have fewer than 30 employees. Like other smaller community banks, we believe in developing and maintaining long-term relationships with customers. One out of every three banks has served its local community for more than 100 years."

Lisle Savings Bank takes great pride in being a home lender where our mortgages are funded by Main Street and not Wall Street. Our employees are local residents who enjoy seeing family, friends and neighbors as customers and they are part of the fabric of our community. The most humbling professional compliment I ever received was by a local newspaper columnist who listed my living in Lisle as one of the top reasons to live in Lisle.

Personally, I have been with the bank for 40 out of our 94 years in business and, as you would suspect, I have seen many changes in that course of time. The most recent and dramatic changes, however, have taken place in just the last few years. The reason we are in business is to gather local deposits and make single family home loans in our market area. However, the board of directors, management and staff all feel paralyzed by the time spent on compliance and regulatory monitoring. We can imagine the trepidation of not wanting to be on the last examination team before a bank failure, however, we believe the objective of determining whether a financial institution is a threat to the FDIC insurance fund has evolved into the micro-managing of a private business. We understand the ripple cause and effect of the housing debacle on bank regulation, but are frustrated and discouraged knowing so many people agree that banks such as ours were not the cause of the real estate tsunami. Having earned nearly $90 million in capital in 94 years, we view this position of strength as our "rainy day" money to withstand business cycles.

Yes, we have foreclosures and real estate owned, but we know this too shall pass. We want to live to fight another day, but strongly believe that the regulatory burden comes at too high a price in terms of dollars spent, employee time and the distraction of documenting our daily activities in terms of policies, procedures and committee minutes. We currently have 43 policies that require annual board approval. While there may not be a legal mandate of a One-Size-Fits-All Approach to regulations and examinations, the policies and procedures of the largest financial institutions eventually become "best practices" for everyone else. There is certainly a feeling that we are struggling with the dichotomy of executing a Home Depot business plan while maintaining our small town hardware store roots.

For years there was a business-as-usual environment at Lisle Savings Bank during safety and soundness, compliance and CRA exams. Then loan delinquencies, foreclosures and real estate owned demanded our full attention. In 2009, we were told our compliance management system was lacking and we were too big not to have a full-time Compliance Officer. We were not sure what could have changed seemingly overnight, so we asked one of our younger management trainees if he would be interested in learning the ins and outs of compliance and assume that responsibility on a full-time basis. He accepted the offer as he knew promoting from within had been our standard operating procedure when a position became available. This practice has contributed to our track record of high employee retention. After spending nearly $100,000 on both training and independent compliance consulting services over a twelve month period, we learned the promote from within concept was not going to work in this instance. The learning curve was far too long and our Compliance Officer gave his notice of resignation. He decided the banking industry and certainly compliance were not for him. We were unaccustomedly in the market to hire an officer from another bank for the very first time. After some preliminary telephone discussions and several personal interviews, we learned the cost of an experienced compliance officer would make a Compliance Officer the sixth highest paid position at the bank.

I hope that common sense will prevail and that our pervasive concern with compliance and "what will the regulators think" will become secondary to providing the best possible customer service, product development and growth strategies. Right now though the threats to the future of a bank our size and certainly even smaller institutions are very real. The increased regulatory burden – laws passed by the Congress and the state General Assembly, rules promulgated by federal and state regulators, pronouncements by the Financial Accounting Standards Board, and interpretations offered by on-sight examination teams result in overwhelming input to our bank's compliance team which primarily consists of supervisors of customer service departments. I wish I had the foresight to factor in additional costs of the Dodd Frank legislation. Compliance expense (excluding salaries), auditing and training expenses were $80,000 in 2008; $111,000 in 2009; $118,000 in 2010 and $140,000 in 2011. These costs are severely understated if we were to include salary expense and allocate overall employee time to regulatory duties.

Thank you for the opportunity to testify here today at the local hearing of the House Financial Services Committee. The Illinois League of Financial Institutions and I appreciate your work on these important issues and your willingness to hold a field hearing to gather evidence for your future use. I can be reached at 1450 Maple Avenue, Lisle, IL 60532 or Jay Stevenson, the President of the Illinois League of Financial Institutions, can be reached at 133 South 4th Street, Suite 206, Springfield, IL 62701.

Your work on behalf of the nation is greatly appreciated.

Very truly yours,

James J. Renn
President and
Chief Executive Officer

James J. Renn Biography

James J. Renn has been a Lisle/Naperville area resident since 1959. He graduated from Naperville Community High School in 1967 and from Northern Illinois University in 1971. Mr. Renn is currently the Chief Executive Officer of Lisle Savings Bank and celebrated his 40th year at the bank on November 1, 2011.

During his tenure at the bank, he has served on the boards of many local organizations such as the Lisle Convention and Visitors Bureau, Lisle Area Chamber of Commerce, Rotary Club of Lisle, President's Advisory Committee of Benedictine University and parish council at St. Margaret Mary Church. He has also served on the boards several bank trade organizations such as Chicagoland Association of Financial Institutions and Illinois League of Financial Institutions.

He is immediate past Chairman of the Board of the Illinois League of Financial Institutions and currently serves on the boards of the West Suburban Community Pantry and the Lisle District 202 Education Foundation Board. Mr. Renn has been a member of the Rotary Club of Lisle since 1996 and has 14 years of perfect attendance. He was also on a Parents Task Force at DePaul University to encourage parents of current students to make financial contributions to DePaul.

He enjoys his role as a greeter at St. Margaret Mary Parish on Sunday mornings.

Mr. Renn lives with his wife, Laurie, and two children, Aaron and Emily, in Green Trails in Lisle.

Testimony of James M. Roolf

U.S. House Committee on Financial Services

On behalf of the

Illinois Bankers Association

Before the

Committee on Financial Services

United States House of Representatives

December 5, 2011

Chairman Bachus, Ranking Member Frank and members of the committee, my name is James Roolf, and I am President of First Midwest Bank's Joliet Banking Center, which is an $8.4 billion bank headquartered in Itasca, Illinois.

It is a privilege for me to be here today as Chairman of the Illinois Bankers Association (IBA), which represents well over 325 banks and savings institutions of all sizes across our state.

Illinois is home to more banks and savings institutions than any other state in the nation. There are 636 FDIC-insured banks and thrifts with nearly 5,000 banking offices doing business in Illinois. Of those, 584 are headquartered in Illinois, representing $341.5 billion in assets and $276.3 billion in deposits.

I'd like to start by thanking you for convening this important and historic hearing, and for giving me the opportunity to present the views of the IBA concerning the considerable challenges that our members, banks large and small across the state, are facing from the current—and yet to be determined—future regulatory environment and the impact that these challenges are having on consumers and local communities.

No doubt in recent months, you have heard from hundreds of witnesses who have testified before you that the strength and health of the banking industry and economic strength of our communities are closely interwoven.

It is a well-known fact that when a bank establishes roots in a local community, that community thrives. Many Illinois banks have been in their communities for decades and hopefully they will have the opportunity to be there for many more decades to come.

In fact, over 575 Illinois banks have been in business for more than half a century the majority of which have served their local communities for more than a century! These numbers clearly demonstrate the staying power and commitment Illinois banks have to their customers and the communities they serve.

What is troubling, though, is that current regulatory pressures are forcing many banks and savings institutions—particularly smaller ones—to make difficult choices, including whether or not to get out of certain business lines, or simply cut their losses and merge or sell their banks.

This means that Illinois inevitably will have fewer local banks, ultimately resulting in less competition and fewer choices for consumers. This, combined with less access to credit, the loss of jobs in our local communities and reduced opportunities for many charitable and other organizations, will be devastating to an already struggling economy.

Since the beginning of the financial crisis in 2008, regulators have closed 50 Illinois headquartered banks, and another 28 Illinois banks have been merged out of existence. And we continue to see a large number of mergers as banks try to find ways to survive in this ever increasing regulatory environment.

As Chairman of the IBA, I have traveled 2,000 miles in the last few weeks to meet with hundreds of Illinois bankers throughout the state. And their message is strong and consistent about the impact the overwhelming regulatory burden is having on their business and their ability to serve their customers.

Many Illinois banks—particularly community banks—no longer are talking about introducing new products and services, marketing strategies, business loan development, customer retention and acquisition, or delivery platform innovations. Instead, they are hiring new compliance personnel, shifting other staff resources to compliance issues, creating new compliance policies, buying new software to ensure compliance, and paying legal and consulting fees to help comply with these new regulations and manage their regulators' ever-increasing expectations—all at the expense of their customers, local communities and shareholders.

And, as compliance burdens continue to increase and costs escalate, many community bankers are questioning the long-term viability of their banks, which lack the requisite resources necessary to comply with current, new, and yet to be determined, complicated regulations.

Last year, the Illinois Bankers Association conducted a survey of all banks in the state. We asked about how the current regulatory environment is affecting their business and how they expect the future regulatory environment will impact their costs of doing business as well as their business decisions.

More than 160 banks and thrifts responded to our survey, and some of the data that we gleaned was simply startling. In addition to outsourcing compliance functions, hiring additional staff, and retaining more capital and earnings in lieu of lending, many community banks will consider options we feared the most. More than one third of the banks surveyed said they are likely to consider merging with other banks, or selling their bank to a larger institution.

Of the total number of banks and thrifts in Illinois, 423 of them are under $250 million in assets. Consider the significant impact on the state of Illinois and its communities if these banks can't survive amid the mass of new regulations.

My written testimony contains an attachment of just a few "real life" examples from Illinois bankers that I have heard. One comment from a bank with under $250 million in assets stands out because it mirrors what we hear over and over again.....The comment (in part), reads: "We used to devote half of one employee's time to compliance, and now we have at least one full-time employee plus two other staff with compliance related duties. We estimate this additional cost at around $50,000, annually. He further stated: "we have raised our fees on virtually every loan type to try to make up for all of our compliance work in making loans. The biggest burden by far is 1-4 family residential mortgages. I can see many banks getting totally out of making home mortgages. I would say this is the most overwhelmed with regulations I have felt in my 20 years in banking, and it is a fight every day to keep our employees up to date and fully trained. I cannot see the viability of banks under $100 million. They will not have the staff to do this, and if they hire outside vendors, then they will not make any money for their local investors, so why do it?"

As regulators and the Consumer Financial Protection Bureau attempt to streamline existing rules and develop new ones to implement Dodd-Frank, we urge you and all members of Congress to hold all regulators accountable to determine the real costs of compliance, particularly the cumulative effect of constantly changing rules on a banks' ability to carry out its core business of serving its customers and providing credit.

It is crucial that the perceived benefits of each rule be weighed against its ultimate costs to a bank's customers—including the costs that it adds to a particular product or service as well as its impact on the availability of access to those products and services.

We hope Congress will exercise prudent oversight of the CFPB as they start to implement rules. We urge you to make sure that the CFPB does not add a new layer of regulation, instead of replacing layers of regulation as it was intended.

We also want to express our strong support for two bills that are pending in Congress. H.R. 3461 seeks to address some of the concerns related to the examination environment by calling for timely examination reports, more precise and understandable classification standards for commercial loans, an expedited and independent appeals process, as well as an independent ombudsman to ensure consistency in exams. Also, H.R. 1697/S. 1600 would provide community banks with some needed regulatory and tax relief, as many compliance requirements disproportionately burden community banks, and ultimately would help community banks free up the needed capital to continue serving their customers and communities.

In closing, Illinois and the rest of the country cannot afford to have fewer banks. Our communities depend on banks every day. **Banks create jobs!** We all know that small business lending plays an essential role in the economic recovery and in creating desperately needed job growth.

Banks are businesses! Illinois-headquartered banks and thrifts employ over 58,200 Illinois residents, and together with out-of-state banks and thrifts doing business in the state, the Illinois banking industry employs over 95,000 people in Illinois, who all contribute to the local economy.

Bankers are community leaders! They provide leadership to numerous organizations and activities that are important to our communities—whether it is the local United Way chapter or food bank, or serving on the board of a hospital or local chamber of commerce—bankers facilitate economic vitality in communities across this State and indeed the Nation!

Thank you again for coming to Illinois, and for allowing Illinois bankers to candidly discuss our concerns regarding the regulatory environment, and to recommend some solutions to help foster a strong economy.

Illinois bankers are committed to helping restore our economy, and we know Congress is committed to doing the same. We look forward to working with you to achieve our mutual objective.

Statement of the Naperville Area Chamber of Commerce
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To: House Committee on Financial Services

Regarding: Regulatory Reform: Examining How New Regulations are Impacting Financial Institutions, Small Businesses and Consumers in Illinois

By: John Schmitt
President & CEO
Naperville Area Chamber of Commerce

Delivered: Monday, December 5, 2011, 9:00 a.m.

Our Mission:

Through the commitment and engagement of our Members, the Naperville Area Chamber of Commerce provides leadership for the benefit of the business community by promoting economic growth, advocating the interests of business, providing service and education to Members and community, and meeting Members' needs.

The Naperville Area Chamber of Commerce is the second largest chamber of commerce in Illinois and has received the prestigious designation of 5-Star Accreditation from the United States Chamber of Commerce. An honor bestowed on only 75 Chambers in the nation, out of the nearly 7,000, for their Member's involvement and engagement in promoting free enterprise and strengthening their regional business community.

Statement of John Schmitt
President & CEO
Naperville Area Chamber of Commerce
November 22, 2011

Chairman Bachus, Ranking Member Frank, distinguished members of the Financial Services Committee and members of the Illinois delegation, thank you for the opportunity to speak with you today. My name is John Schmitt and I am the President & CEO of the Naperville Area Chamber of Commerce, a regional chamber in the western suburbs of Chicago.

Our Chamber is proud to have approximately 1,400 members of every size and sector. Our Chamber's diverse membership base includes small start-up companies, Main Street retailers, non-profits, and some of our nation's largest companies. This provides us with regular interaction with a wide spectrum of business backgrounds, needs, business models and challenges. On behalf of all of our members thank you for holding this field hearing and studying how recent legislative and regulatory changes are affecting the availability of credit for businesses.

Today's other panelists are issue experts about how the Dodd-Frank Act and creation of the Consumer Financial Protection Bureau are affecting the banking industry and affecting the accessibility of credit. These bankers are the experts because they are the businesses that are dealing on a daily basis with bank examiners, officials and of course, customers seeking loans.

Today, I am here to provide you with an update from the business community and to explain the environment small businesses are operating in, and the general themes we hear from our members about the availability and accessibility of credit.

Our Chamber firmly supports sound consumer protection regulations. Our national economy and global economy are still struggling to recover from the depths of one of the worst meltdowns in the history of civilized society. Small businesses, who are the vast majority of our membership and businesses in America, have been hurt mightily during the recession.

So while today we are discussing what changes to could be made to improve the accessibility, I think it is important to remember just where we've come from. The recession and its aftermath have decimated the small business community.

Small businesses are reeling from soft consumer demand, lowered home-values, a difficult economic climate, and difficulty maintaining and obtaining credit.

The cumulative result is that existing businesses have been pushed to the brink and many had to close. For reference, we recently completed a review and estimate that since January of 2008, 300 businesses that were members of our Chamber have closed and gone out of business.

New businesses are finding it difficult to get started. While small business is inherently a risky enterprise during the good times, the recession and the resulting softness in our economic climate has been a toxic mix for too many entrepreneurs.

While there was a need to save those "too big to fail," for the safety and soundness of America's and the global economy and financial system; today it is the small businesses, the smaller institutions and the American people that are paying the price to restore the financial system to health.

Thankfully, the credit markets are opening again, but I fear they are open only for some of our nation's business community. For the small business community there are too many hurdles and too much uncertainty in quickly obtaining loans – even for seemingly credit worthy businesses. There are additional examples of this sentiment available later in my statement.

I believe there are two competing desires that are seemingly at odds and are at fault for the difficulty in small businesses to obtain credit. From a macro-perspective there is the desire get the economy growing, which will require businesses to have ready access and availabile credit. This desire is juxtaposed with the continuing efforts of the regulatory community to ensure stabilization of our banking system, making sure it remains systemically healthy, averting failures, and of course, avoiding any further bailouts.

I'm reminded of my high school economics class and the lesson focusing on our inability to have our cake and it eat it too.

I don't know if regulators understand the perils and risks of having tunnel vision on their quest to ensure that the mistakes of the past aren't repeated are having on the business community. The Chamber doesn't fault them for this, it is the job of the regulatory community to regulate and prevent too much leverage from threatening our financial system – but we hope they are hearing from you, our elected leaders, on the importance of enabling banks to lend to small businesses and start up firms.

Loans to small businesses didn't cause our economic meltdown, but it seems as if our natural reaction to the financial collapse and past abuses, may be hampering our ability to recover by making it too difficult for small businesses to obtain credit.

Unfortunately, I am afraid that we are just in the beginning of a long and difficult struggle for small businesses from obtaining the credit they need to stay open or to expand their operations, hire additional workers and invest in America's communities. I say this because we repeatedly hear that business owners are spending more of their time working on obtaining credit, rather than running their businesses or working on actually growing their business.

One of the most puzzling and disheartening stories we repeatedly hear at the Chamber is a bank turning away or revoking credit from longstanding and long-established customer. Often, with very little communication, small businesses are told that their existing arrangements must be reworked or will not be renewed, or that a business must infuse a significant amount of capital to get a loan renewed.

For a small business, this results in a frantic and difficult chase to secure financing. This is a distraction from running their business and weighs heavily on their decision to hire additional workers.

Reports From the Trenches

At this point, I would ask permission to enter the following anecdotes into the record. I would ask your permission in refraining from using the business names or organizations that they were seeking loans from. The Chamber isn't passing judgment on why their experiences turned out as they did, I just want to provide you with examples of what we have heard. And it is important to note that we heard from several organizations that have reported no problems accessing credit. Generally, these were long established organizations and a vast majority of our negative experiences come from businesses in the start-up phase of their business.

On Main Street and in general, the business community has seen a change in their banking relationship. There is a new party in the transaction and that is the banking regulator. Often, businesses seeking loans are told about this mysterious party and often bad news is delivered in the name of the regulator.

While I know the construction industry and real estate markets are widely credited with playing a major role in the financial meltdown there are two anecdotes that speak directly to this point.

The first is the example of one of a local construction and land developer who, despite never missing a payment and having 100 percent, again 100 percent occupancy, had to go to 22 banks before he could obtain the credit necessary to continue to run his business. Not a good experience and one that is directly attributable to the industry's changing valuations of certain assets.

Another is the example of one of the most prominent real estate development firms in our community. They were a conservative organization and were not overly leveraged. They had a path forward to survive the recession and remain a going concern. Instead however, banks stepped forward and would not renew their loans and instead sought millions of additional capital be infused to maintain the status quo.

Like the previous example, this business had never missed a payment and none of the properties were distressed. At the end of the day the owners faced a choice between infusing millions into the enterprise and slogging it out, or taking the option of simply walking way.

After review and debate by the business' owners they decided the path they would take would be to file bankruptcy and close down. Both the bank and the business were within their right to act as they did, but we did not achieve the desired result.

New Business Start Ups

Our Chamber is pleased to provide meting space and other assistance to the Fox Valley SCORE chapter. Every week the volunteers at SCORE meeting with individuals seeking the American dream, to start a business. Before the recession, generally the advice focused on the need to develop a business plan to submit to a bank.

Now however, many of these entrepreneurs struggle to find available credit for their concept. A SCORE counselor recently told me that they were advising clients to seek access to private capital, in lieu of the traditional course of brining their business plan to a bank. It's not to say that every person who thinks of starting a business is taking this path, but I think it speaks volume to the challenges facing new businesses.

One of the SCORE counselors advises clients on his experiences running a small business and the difficulty they face in financing. This counselor did not have a loan renewed for his business that was in the pharmaceutical industry, and a business with $9 million in revenue and 50 employees shut its doors.

Another very successful recent retail startup contacted me about my testimony today. This business owner has a great retail concept and has been doing very well since they opened their business over a year ago. As they have pursued a loan to expand, they have been repeatedly denied. They have been told it is because they don't have a three-year track record.

This is while they've put hundreds of thousands of dollars of their savings into the business to get it launched. They are growing increasingly frustrated at the inability to obtain financing. While retail businesses are a risky, if we want to fill the shopping centers, strip malls and downtowns of America with stores and workers - we need to have a ready supply of credit available to entrepreneurs with an idea and a concept.

This business owner I believe the business has been looking to obtain financing from private sources, alumni networks and others. However, the lack of access to credit has been frustrating and diverted significant attention away from growing their business.

The Need For Credit For Existing Businesses

Another example from our membership I would like to share with you is the story of one of our Chamber's Small Business of the Year Award winners and Chamber board members. He's been trying to do exactly what this county needs, purchase another business, invest in it, take a new retail space and hire additional workers.

After being told by his bank where he had a longstanding relationship that financing would not be possible, this entrepreneur has spent the past ten months trying to find someone else who would step forward and provide the financing. He is awaiting final approval from an SBA lender. However, the inability to obtain the financing has delayed the expansion and investment in this business.

Another example I would like to share is one I learned from speaking to one of our community's most prominent business leaders. They have a 25-year track history and have several successful business ventures in town.

Their business, a hybrid showroom and retail storefront is a partnership with another prominent and successful business partner. They saw opportunity in the marketplace and wanted to expand into a new product line. While seeking a loan from an institution where they have significant deposits they were told they could get a loan for the amount they requested, but only if they put the same amount of money in a cash deposit at the same bank.

Thankfully these entrepreneurs had the means to make this arrangement work, but it does not speak well to the availability of credit to creditworthy individuals.

The Role of Credit

It is important to remember that many small businesses – unlike large corporations, often rely on an "all of the above" means of financing their business. They use and risk their personal credit, cash, home equity loans, collateral, credit cards, anything and everything, to get their business through the lean times.

Small businesses, entrepreneurs and start up companies most need credit to be available and cheap during their lean times. Small businesses need banks to give them loans when the small businesses need it, not when it works for a bank's ratio or when they have a proven track record.

Unfortunately it appears that our banking system and banking regulators have grown risk averse and unwilling to take a chance on small businesses when they most need it. We need a capital structure that finances the hopes and dreams of America's entrepreneurial class.

As I said before, small business is an inherently risky enterprise. It brings with it the greatest reward possible in the American dream. We need a system that can evaluate and review concepts and new ideas and find a way to quickly and promptly provide an answer. Our Chamber believes endless and lengthy delays in obtaining credit are negatively impacting our economic recovery.

There is no regulatory structure, loan classification system or ratio that can define whether a small business concept will be successful. We have tens of millions of small businesses in this country because we have entrepreneurs willing to risk it all, and people willing to invest in this opportunity.

We hope these examples today echo what you have heard as you visit with your constituents so that it leads this committee towards taking action to make it easier for small businesses to obtain and access credit. Our economy relies on trial and error, success and failure. We urge you to keep close eye on the regulatory and banking system to make sure that it is not stacked against funding the American entrepreneur. Our nation desperately needs this talented group of people to bring us back to prosperity.

Compliance Costs

Our Chamber asks the members of this committee to ask the regulatory authorities, agencies implementing new regulations, to continue to focus on the impact new mandates have on small businesses.

Overall the small Business Regulatory Enforcement Fairness Act panel has been successful at reworking regulations that would have a significant and burdensome cost on our nation's small businesses. The Chamber and our members hope that you would ask that all of the rules, regulations and mandates required in Dodd-Frank be considered on the impact they have on the small business community.

Small businesses do not have a compliance department, or the benefits of economies of scale. Every regulation and the time it takes to comply shows up directly on their bottom line.

Please remember that small businesses use every means possible of financing their business and any actions which increase the costs of borrowing or credit, directly impact the ability of small businesses to open and ultimately compete in the marketplace.

Conclusion

We hope you will continue you efforts to understand why small businesses are finding it so difficult to obtain loans. If at the end of your examination you feel that the regulatory community is taking an inappropriate, or overly conservative approach towards the availability of credit to small businesses, we urge you to use your regulatory and oversight authority towards making changes that will increase the lending and availability of loans to budding entrepreneurs and small businesses.

Thank you for the opportunity to speak with you and I am happy to respond to any questions you have. Thank you for your service to our nation.

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Testimony of Peter Haleas

U.S. House Committee on Financial Services

On behalf of the

Illinois Bankers Association

Before the

Committee on Financial Services

United States House of Representatives

December 5, 2011

Chairman Bachus, Ranking Member Frank and members of the committee, my name is Peter Haleas. I am Chairman of the Bridgeview Bank Group, in Bridgeview, Illinois. We are a $1.4 billion commercial bank with 15 offices and 290 employees including an active mortgage company.

I believe that community banks offer one of the few solutions to lift our economy out of malaise. Jobs and economic growth are stimulated by community banks which provide "blood" to small businesses and communities which are the backbone of our nation.

One specific example is a $20,000,000 construction loan for a new grocery store (among several other stores), the fifth in a family operated chain of grocery stores. This project not only provided jobs for construction, but the grocery store added 200 new jobs not to mention additional community needs like police and fire support. This loan, made in a challenging time for commercial real estate lending is a success not only for the bank but the community as well.

Unfortunately the harsh regulatory pressures have stalled lending. Regulators are fine individuals who generally are conscientious and are trying to do what is right for the banking system. We value our strong ties with them. However, it is the regulatory system which is flawed. To quote former Chairman Barney Frank and Congressman Walt Minnick from their letter to regulators dated October 29, 2009:

Community banks became strong and viable players in the financial services industry because they fill an important need, and it would be short-sighted to weaken that role through over-zealous regulatory actions – actions based not on wrong-doing or poor management practices at these banks, but on changes in the economic environment and toughening regulatory standards.

We agree. The system needs to change.

To begin, the exam environment continues to be harsh and as a result, hampers economic growth. Many banks have received arbitrary capital requirements well above statutory limits for a well capitalized institution with limited time to achieve these higher marks. Consequently, banks are forced to pass up sound loan opportunities in order to preserve capital ratios. In fact many bankers discuss shrinking their balance sheets in order to achieve capital ratios placed on them by regulatory orders. Consequently, community lending suffers and the current process in requiring additional capital at best seems arbitrary and punitive. In addition, increased percentages required in a bank's loan loss reserve do not count in a capital ratio. Simply put, higher capital ratios coupled with higher loan loss percentages which do not count as capital stifle lending activity as banks race to preserve capital and use cash to bolster its allowance for loan losses ("ALLL"). One possible solution is to allow all funds in loss reserve to be included in a bank's capital calculation. Another possible solution is to fix capital ratios at an acceptable level for all banks so that privately held institutions have ample opportunity to achieve the required mark.

As community banks, we also believe banks have a moral and social responsibility to the communities we serve. In part, this means assisting Borrowers who in good faith are trying to survive. Yet another regulatory categorization dissuades this effort. The Troubled Debt Restructuring ("TDR") categorization of virtually any borrower accommodation forces a bank to mark to market the value of the underlying collateral on a loan (depleting capital) and carry the loan as a classified asset (the problem "bucket" for regulators). Does this not cut against the spirit of how a bank is supposed to support its community? We are charged with assisting housing in blighted areas (CRA) yet dissuaded from helping borrowers who potentially supply jobs to help in affording the homes? These diverging policies are inconsistent.

Allow me to highlight a specific example. We have a local Borrower who owns a gas station which faced an enormous real estate tax increase. This tax increase caused the Borrower to come to us and plead for assistance (a lower rate and modified amortization schedule). Yet because we would then be forced to carry this loan in a TDR category resulting in a classified asset, we told this Borrower we could not help him. The result? He shut his business down and fired his employees. The Bank was left with no alternative but to incur a loss via the sale of the asset in order to avoid carrying a classified asset on the books for an extended period of time. These actions forced upon us were morally gut wrenching. We did not help an individual and we certainly did not assist an economic recovery.

Specifically, we would ask Congress to review the requirements on TDR and allow banks to positively reflect borrowers accommodations on their balance sheets.

One concrete suggestion to the TDR issue is to disallow the requirement to mark a loan to market value simply when accommodating a Borrower. After all, the Bank has taken an economically injurious action (by lowering an interest rate) in order to attempt to help a Borrower.

Another positive step Congress could take to assist the economic recovery is allow Banks a three to seven year window to amortize a mark to market on property securing impaired loans. Quite simply, banks are currently forced to follow a current market analysis subjecting the Bank to the lowest ebb of devaluation. A longer amortization period would provide bankers with the opportunity for the market to correct itself and not deplete precious capital ratios. This action by Congress could help strengthen lending activity.

Another ABA and IBA supported bill, H.R. 3461, the Financial Institutions Examination Fairness and Reform Act sponsored by Representatives Shelley Moore Capito (R-WV) and Carolyn Maloney (D-NY), warrants strong support is intended to address a number of concerns with bank examinations. The bill would ensure that financial institutions receive timely examination reports, including all of the documentation that regulators used to make their determinations. It would provide for new standards for exams, which would include restricting the placement of commercial loans in nonaccrual status solely because collateral has deteriorated in value, and not require new appraisals on commercial loans unless new funds are involved. In addition, the bill would establish an Independent Office of Examination Ombudsman within the Federal Financial Institutions Examination Council (FFIEC), and would create a timely, independent, and fair process for financial institutions to discuss examination decisions.

Congress has the power to fix our economic problems of today through, in large part, easing the regulatory burden confronting community banks. The entire banking industry simply wants to ensure that we can have a supervisory climate that contributes to the economy and job growth rather than stymies it. Thank you for the opportunity to testify before the Committee, and for your keen interest in helping find ways to restore economy and create jobs.

Thank you.

Testimony of Michael G. Steelman
Committee on Financial Services
December 5, 2011

Chairman Bachus, Ranking Member Frank and members of the committee, my name is Michael Steelman, I am the Chairman and CEO of Farmers and Merchants State Bank of Bushnell, Illinois, a $58 million dollar community bank located in west central Illinois, in a community of 3200 people. Our bank was chartered nearly 100 years ago, in 1913, and we have 19 full-time employees and 3 part-time employees. We are an employee owned ESOP bank, with the employees owning nearly 50% of our company. I appreciate the opportunity to provide members of the committee with a community banker's view of the impact of federal rules and regulations upon our company, our customers and community.

No one today wants to listen to bankers complain. Nevertheless, what is happening to community banks today is like a large weight on our chests that is slowly, yet surely squeezing the last breath from community banking in this country.

When I started in community banking over 25 years ago, I thought the compliance burden was heavy. One of my first duties included computing Regulation Z percentage tolerances to within 1/8 of a percent, and keeping a log of that. We dealt with several other regulations at that time, and thought we were over-regulated. In hindsight, that was nirvana.

Since that time, including the agriculture crisis of the 80's, the Savings and Loan crisis, and the sins of our brethren big banks and Wall Street firms, there have been many well-intentioned attempts to rescue consumers from perceived problems, and rules and regulations have been added and added again. In my community bank, officers and employees spend an inordinate amount of time trying to understand and comply with the incredible number of rules and regulations that affect us every day in our business. Two employees spend nearly all their time dealing with compliance. Everyone, including the tellers, spend a large part of their day dealing with compliance forms and duties. We have had to hire a full-time professional compliance firm to help with our compliance program, at a very high cost for a very small bank. Many of my younger employees spend so much time in compliance that they don't really understand what real banking is, which should be to provide service to our customers.

The compliance process for community banks in this country subsumes and swallows the underlying goal of regulations. Let me give you an example.

The Bank Secrecy Act, which deals with money laundering, among other things, is a worthy and laudable program. However, with a 300 page examination manual, and many more hundreds of pages of rules, regulations and procedures, banks - not the money launderers - become the target of the process. The examiners, as they are trained to do, hone in on any violations of the program, and the process becomes their focus, not the true goal of catching the bad guys. The banks become the bad guys. We become the subject of regulatory actions and fines, all from this labyrinth of rules and regulations that are impossible for any one small institution to understand or fully comply with.

Well before this maze of money-laundering rules, we successfully identified a money launderer, cooperated with law enforcement, caught the person who was attempting to launder money, and we did so without the incredible amount of rules that are layered into the process today. We did that with common sense and cooperation with the authorities.

The residential real estate closing process is a perfect example of the over-kill of regulations. What should be a relatively simple, understandable and fair process for a home loan customer has become arduous and laborious with a complete lack of clarity. From mortgages and notes that have become many multi-page documents that must cover every possible outcome that might affect a borrower, to HUD disclosures that are nearly unintelligible, to many more pages of spurious disclosures, a typical real estate closing is now a 100 page nightmare. Hardly any borrower I know completely reads all of the documents. My employees do the best they can to go through every document with the borrowers, but the borrowers simply become frustrated, thinking we bankers created this mess, as opposed to the incredible number of regulations that we must comply with to simply close a home loan.

Although the Consumer Financial Protection Bureau is attempting to draft simpler disclosure forms, as a community banker, every time I hear "simplify the process" from Washington, I grow apprehensive. It has never become simpler, it has never become less complicated, and it rarely benefits the consumer by outweighing the costs and agony it creates. For example, the draft consumer financial protection bureau settlement disclosure form does attempt to shorten some of the disclosures. However, I note that included on the draft forms are an item captioned "lender cost of funds," which it describes as the cost of funds used to make a loan to the borrower. It further states "this is not a cost to you." I find it interesting that CFPB is attempting to put the cost of the "product," that is the mortgage, on the face of the disclosure. I can't think of any other product sold in the United States which the government forces the seller to include his cost of producing the goods to the buyer. This will simply exacerbate the distrust between customers and banks. Homebuyers will demand to know why, if cost of funds is 1%, banks are charging them 4%. A higher cost of funds would reflect the fact that we are paying our deposit customers higher rates. This disclosure would not be understood and would be confusing for customers.

The creation of the Consumer Financial Protection Bureau, upon the passage of the Dodd-Frank Act, will have broad and yet unknown effects on community banks. Although the CFPB will examine institutions with more than $10 billion in assets, even if we are not examined by the CFPB, any new consumer protection rules will still apply to community banks. We are already examined by the Federal Reserve Bank, the FDIC, and the State of Illinois. Another layer of regulator is nearly incomprehensible. To try and understand the CFPB's authority to curb practices that it deems "unfair, deceptive and abusive," obviously broad and subjective terms, will be very difficult to deal with. Everyone agrees that abusive practices should be curbed. Who defines abusive, and what exactly that means to community banks and their customers is the question. We are affected by what large institutions may have done in some fashion. Regulation flows down hill, and we are impacted by rules intended for the mega banks and Wall Street firms.

Although well intentioned, the rules and regulations have in many instances, forced banks to become "police" for nearly every financial action in the country. Mandates such as Bank Secrecy Act, internet gambling and other regulations that force us to watch for, report and follow up on financial actions of customers are for us, simply unfunded mandates. Community banks only have so many resources to do our basic job of accepting deposits, and lending to our customers and small business. All of the actions that congress forces us to take to become a financial watchdog for the country are unfair, burdensome, ill-productive, and create an industry of compliance and regulation, not a solution to problems.

There are unintended consequences of otherwise well-intentioned rules and regulations. The economies of small towns are weakened because our resources must be directed toward compliance and not loans and helping our small business owners and consumers. Needless to say, fewer jobs are created or kept, and the larger goal of a strong local, state and national economy falls by the wayside. The uncertainty that surrounds existing regulations, and how examiners may interpret them are a burgeoning threat. Huge enactments, such as Dodd-Frank, create massive amounts of new rules and regulations, many of which are yet to come. The overall uncertainty created by this environment means that we become hesitant to lend or to take affirmative action that we would otherwise take in a simple, stable regulatory environment.

Community bankers fully accept the fact that there are some rules and regulations that are appropriate and necessary. But, the sheer weight and number of regulations that exist today, and that are forthcoming, are too much. Many of my fellow community bankers have given up, sold out, merged or are ready to do so. This will be tragic for small business owners and consumers in small towns that are understood by the local community banker, but that certainly will not be well-served or understood by larger banks that will never understand the rural base.

I am very proud of the fact that our bank has served our farmers, small businesses, local manufacturers and consumers for nearly 100 years. We know and trust our customers and we are the major contributor in all other ways to our community. The story of our small bank is repeated hundreds and thousands of times across this country. We are simply asking you to preserve the community banking system. We must be freed from the cumulative, choking regulations that keep coming even as we speak.

Thank you for your time and your thoughtfulness in hearing the concerns for our community bank and its customers.