EXAMINING REGULATORY RELIEF PROPOSALS FOR COMMUNITY FINANCIAL INSTITUTIONS

HEARING

BEFORE THE

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OF THE

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EXAMINING REGULATORY RELIEF PROPOSALS FOR COMMUNITY FINANCIAL INSTITUTIONS

Wednesday, December 4, 2013

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Shelley Moore Capito [chairwoman of the subcommittee] presiding.

Members present: Representatives Capito, Duffy, McHenry, Pearce, Posey, Fitzpatrick, Luetkemeyer, Stutzman, Pittenger, Barr, Cotton, Rothfus; Meeks, Maloney, Watt, Hinojosa, Scott, Green, Lynch, Murphy, Delaney, and Heck.

Ex officio present: Representative Waters.

Also present: Representatives Stivers and Beatty.

Chairwoman CAPITO. The subcommittee will come to order.

And without objection, the Chair is authorized to declare a recess of the subcommittee at any time.

I would also like to ask unanimous consent that those members of the full Financial Services Committee present today, who are not members of the Financial Institutions Subcommittee, be entitled to participate in the hearing.

Without objection, it is so ordered.

This morning's hearing exemplifies the ability of members of this committee to come together and work towards the shared goal of providing regulatory relief for community financial institutions. The two bills and the discussion draft before the subcommittee this morning represent the bipartisan work of members who have listened to the issues raised by their local financial institutions.

In each case, members of this committee have crossed partisan lines to develop solutions to the problems that are directly affecting consumers in their respective districts. Mr. Stivers has authored legislation that will allow privately insured credit unions to become members of the Federal Home Loan Bank System.

There are already more than 1,000 federally insured credit unions benefiting from membership in the Federal Home Loan Bank System. The legislation before us today provides privately insured credit unions with access to the increased liquidity for community development and mortgage lending provided by the Federal Home Loan Bank System.

The other bill that we will consider today is a proposal that Mr. Barr has developed to address a specific issue with the Consumer Financial Protection Bureau's (CFPB's) Qualified Mortgage (QM) rule. One provision of the rule determines the ability of certain rural financial institutions to originate balloon loans. The definition the CFPB used for "rural" is so stringent that many predominantly rural areas are deemed to be urban.

As we heard earlier this year from a banker in my congressional district, under this definition, 26 out of the 55 counties in West Virginia fail to meet the definition of rural. If you have driven through West Virginia, that is a little bit hard to believe. Anyone traveling through it knows that West Virginia is a rural State.

Mr. Barr's thoughtful legislation creates a petition process for counties to be redesignated by the CFPB. This targeted legislation will provide meaningful benefits for consumers in rural communities who rely on balloon loans for mortgage finance.

I am also pleased we are considering a discussion draft that I have been drafting with the ranking member of the subcommittee, Mr. Meeks. Our draft seeks to address an issue that has been highlighted by nearly every community bank and credit union witness who has testified in front of our committee this year: the cumulative effect of layering new regulations on top of old regulations.

This challenge is not a new phenomenon. In 1996, Congress recognized the potential for conflicting regulations, and in response passed the Economic Growth and Regulatory Paperwork Reduction Act, which requires an examination of the regulatory framework every 10 years to identify outdated, unnecessary, and overly burdensome regulations. Furthermore, in the last 3 years, former Treasury Secretary Timothy Geithner and current Treasury Secretary Jack Lew have both testified in front of this subcommittee that regulatory duplication should be addressed in order to ensure we have a modernized regulatory framework.

The goal of our discussion draft is to complement existing regulatory streamlining efforts with a perspective analysis of the interaction between proposed regulations and existing regulations. Each agency would be required to identify if a proposed rule or order is in conflict with or inconsistent or duplicative of existing Federal regulations or orders as they develop the proposed rule. In other words, let's determine this before we actually lay another rule on top of existing rules.

The regulatory agencies are then required to resolve the inconsistencies, conflict, or duplication. They are also required to provide Congress with a report of the rules, regulations, or orders that need to be amended or repealed.

I would like to thank the ranking member for working with me on this discussion draft. We have a few minor issues left to resolve, but I look forward to continuing our work to provide a more efficient and effective regulatory system for financial institutions.

I now yield to the ranking member for the purpose of making an opening statement.

Mr. MEEKS. Thank you, Madam Chairwoman.

Indeed, community financial institutions are crucial to our Nation's economy, and they are the primary source of credit for millions of Americans in underserved and rural areas, and for many local businesses. These institutions are facing severe economic regulatory challenges. Their participation in our financial system is literally at stake.

According to the FDIC's community banking study of 2012, the number of community banks has dropped by more than 50 percent since the 1980s. Their share in U.S. credit markets has dropped from 40 percent to 14 percent in that period. During this period, the largest banks—with assets greater than $10 billion—grew 11-fold, raising their stake in total industry assets from 27 percent in 1984 to more than 80 percent in 2011.

These numbers raise serious concerns. I have been engaged in several conversations with small banks and credit unions and there is no doubt in my mind that our community and financial institutions need regulatory relief. Furthermore, I have been reaching out to my colleagues on the other side of the aisle and working with the chairwoman on this issue, and we are all in agreement. The question is, how do we get it done?

As Members of Congress, we very often speak about our role as legislators. And I generally tell my constituents and audiences at speaking engagements that legislating is difficult because you can almost never get it completely right, and thereby adjustments are always necessary. This is especially true when you legislate in response to economic cycles or financial crises. During cycles of long-term financial prosperity, we tend to over-deregulate until it causes the next financial crisis. And after a financial crisis, we tend to pass major regulation that sometimes needs to be adjusted because it goes too far the other way.

The Dodd-Frank Act, in my estimation, is a remarkable comprehensive and complex bill that was clearly needed to adjust the excesses of our financial markets. As I have often said, though, it is not a perfect bill, and many provisions can be improved to provide regulatory relief to community financial institutions that didn't cause the crisis, but yet are severely impacted by the load of new regulations.

Anybody who talks to any community bank or any small credit union will quickly understand that the Dodd Frank Act needs some fixes. I have had such conversations with banks in New York, with bankers and mortgage lenders that operate throughout my district, and they need help and they need that help now.

The bills proposed today go in the right direction. The Clarity Act that Chairwoman Capito and I have been working on to introduce soon, is a good example of a bipartisan bill that is needed to address the need to reduce the heavy regulatory burden facing our financial institutions.

And H.R. 3584, the Capital Access for Small Community Financial Institutions Act of 2013, is another good bill that will provide privately insured credit unions access to the Federal Home Loan Bank System.

H.R. 2672, the CFPB Rural Designation Petition and Correction Act, goes in the right direction on rural designation. However, I would like to see the CFPB be given more time to review its definition of rural and underserved areas. The Bureau has already responded to concerns raised on this definition and properly responded with the 2-year transitions period, during which it will conduct a study.

I think it makes sense that we allow this process to proceed, especially given the commendable, collaborative approach we have seen from Director Cordray in responding to industry concerns.

In closing, let me say that I am disappointed, and here are the only areas where I would like to work in a more coordinated manner with—on a full committee, that efforts to pass a wide range of regulatory relief, as part of a grand package, have not led to more meaningful results.

I would like to just note as opposed to doing it as we are doing it now in a piecemeal approach, taking a few provisions, one at a time, which I don't think is an efficient way when banks need wide relief and they need it as soon as possible.

Democrats on this subcommittee have shown a good faith effort to reach out to our Republican colleagues to get some bipartisan bills moving forward. And I have introduced the drafted legislation as well to push forward more relief, including my bills, to provide a voice at the U.S. Treasury for community banking.

I do thank my colleagues on the other side of the aisle because there has been some real dialogue, there has been some real agreements, a bipartisan agreement and thought patterns on how we could move forward, because I don't think that there is any space between us and knowing that our community and small banks, and credit unions need regulatory relief.

And I think that we can ultimately come up with some real bipartisan legislation to help them out.

I yield bank.

Chairwoman CAPITO. Thank you. I now recognize Mr. Duffy for 3 minutes for an opening statement.

Mr. DUFFY. I first want to thank you, Madam Chairwoman, for holding this important hearing, and I appreciate the panel being here today.

I want to talk about the discussion draft between Mrs. Capito and Mr. Meeks. For me, as I talk to my community bankers, and my credit unions as well, not only do they complain about overregulation, but also the duplicative regulation that comes from those who regulate them. And we have a situation sometimes, where we will have regulators come in and ask for one set of information one way and another group of regulators come in and ask for the same information, but they will ask for it in a little different way. And you have to compute this information in different ways, for different regulators.

This is insane.

I hope that our community banks and our credit unions can focus less on the regulators, and more on making loans to help our communities, our families, and our small businesses grow in America. And I think this bill will go a long way to making sure there is collaboration, cooperation, and communication between all of the regulators.

So, I am supporting the discussion draft, and I look forward to hearing the panel's comments on it.

As well, to Mr. Barr's bill, I live in rural America, I have about a third of the State of Wisconsin in my district, a lot of dairy there, a lot of farms in central and northern Wisconsin. And if you look at the CFPB's QM rule in regard to balloon loans, we have Douglas County in the northwest tip of Wisconsin, Superior Wisconsin, by Duluth. You can say it is a small town in Wisconsin.

But outside of that little corner in Douglas County where Superior is located, the whole county is rural, it is farms. And this is designated non-rural.

Lincoln County has 28,000 people, it sits next to Oneida County. Lincoln County is non-rural and Oneida County, which has almost 10,000 more people, is rural. These are both rural communities. The industry, the agriculture, it is all the same. But you only get these kinds of rules from Bureaucrats in Washington who have no idea about our Wisconsin communities, our makeup and how our economies work. And when you have Bureaucrats in Washington making decisions, you see maps, like the one we have for the QM rule in regard to the balloon loans, that don't make sense.

But for a stray repeal of this part of the law in the PATH Act, which I do support as well, I think Mr. Barr's bill is the next best thing, where we will give our counties the right to petition to go from non-rural to rural, and give the reasons why they fit that appropriate definition.

So, I look forward to the panel's discussion on these two important bills. And with that, I yield back.

Chairwoman CAPITO. Thank you. Mr. Hinojosa for 2 minutes.

Mr. HINOJOSA. Thank you, Chairwoman Capito, and Ranking Member Meeks for holding this very important hearing this morning.

It is very important to listen to the community bankers and credit unions about their concerns, because they are relied on by small businesses and rural communities to extend credit and sustain vibrant local economies.

We can all agree that community banks did not cause the financial crisis, and they have stepped in when the big banks overloooked small and rural businesses. I am concerned that community banks are not lending the amount that they could be and that this is hindering our economic recovery.

Smart regulatory relief is an area that is ripe for bipartisan action, and I am proud to be a co-sponsor of H.R. 2672, the CFPB Rural Designation Petition and Correction Act.

I am glad that the CFPB has acknowledged the overly narrow nature of their original definition for rural, and that they will conduct a study on the best way to move forward.

As we move forward, as I said, with new mortgage rules, we cannot allow rural America to be forgotten, nor unduly impacted. There are many ways that Members of Congress, regulators, and financial institutions can come together to find innovative answers to our problems.

This week, I plan to introduce H.R. 3700, the Building Community Financial Institutions' Capacity to Combat Money Laundering Act, which will address the burdensome cost for complying with the Bank Secrecy Act.

I encourage all Members, on both sides of the aisle, to consider becoming a co-sponsor to my bill.

I look forward to hearing from our panelists about their concerns and ideas for common-sense reform.

Thank you, and I yield back.

Chairwoman CAPITO. I thank the gentleman. I would like to recognize Mr. Barr for 2 minutes.

Mr. BARR. Thank you. I want to thank Chairwoman Capito for holding today's hearing to examine regulatory relief proposals for community financial institutions.

I especially want to thank the chairwoman for including my legislation, H.R. 2672, the CFPB Rural Designation Petition and Correction Act, as part of this important hearing.

The idea for this legislation began with a hearing held by this subcommittee in May, where I learned about the CFPB's blatant and incorrect designation of Bath County, Kentucky, as non-rural.

This is a county in my district which I have visited many times. And anyone who lives in Bath County or who has visited there can tell you that despite the CFPB's bizarre claims to the contrary, Bath County is very much an agricultural and rural county.

In fact, when Charles Vice, the top banking regulator in Kentucky, testified in front of this committee, he accurately characterized Bath County as one of the most rural places in Kentucky.

But this problem of the CFPB's incorrect designation of rural communities isn't just limited to central and eastern Kentucky. Examples of incorrect CFPB designations exist in all regions of the country. In fact, during a full Financial Services Committee hearing in September, CFPB Director Cordray even acknowledged that this same problem exist in his home State of Ohio.

So it is clear that we need to fix this and get things right, because the rural/non-rural distinction affects a variety of lending rules and regulations imposed by the CFPB on community banks.

It impacts access to responsible mortgage credit, including balloon loans in rural and underserved communities.

H.R. 2672 remedies this by creating a common-sense process whereby individuals can petition the CFPB to reconsider a flawed designation. This is a simple, pragmatic, and bipartisan solution.

I want to thank Congressman Hinojosa, the gentleman from Texas, for co-sponsoring it. The bill is about inviting individuals to participate in their government and provide input on matters of local knowledge. It is about making the Federal Government more accessible, more accountable, and more responsive to the people who know their communities best.

And finally, I would like to welcome Thomas Richards, a constituent of mine who is testifying today. Thomas is a fifth generation banker of the Owingsville Banking Company which is located, you guessed it, in Bath County, Kentucky.

Thomas wrote a letter to us, earlier this year, and asked how he could help. I don't know if you envisioned testifying in front of Congress as the way to help, but we are certainly very appreciative of your willingness to testify with us today, and share your local knowledge, and frankly putting a face on this problem which affects rural communities all over this country. So thank you, Thomas, for being with us today.

I yield back. Thank you.

Chairwoman CAPITO. Thank you. I think that concludes our opening statements.

I would like to recognize the ranking member of the full Financial Services Committee, Ms. Waters, and thank her for coming.

That does conclude our opening statements, then. And I would like to welcome our panel of distinguished witnesses. Each of you will be recognized for 5 minutes to give an oral presentation of your testimony. And without objection, each of your written statements will be made a part of the record.

Our first witness is Ms. Rose Bartolomucci, president and chief executive officer of the Towpath Credit Union, testifying on behalf of the Credit Union National Association. Welcome.

And I will just say this in the beginning, you are all going to need to pull the microphone close to you, because the acoustics in the room are not great.

Thank you.

STATEMENT OF ROSE BARTOLOMUCCI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TOWPATH CREDIT UNION, ON BEHALF OF THE CREDIT UNION NATIONAL ASSOCIATION (CUNA)

Ms. BARTOLOMUCCI. Thank you, Chairwoman Capito, Ranking Member Meeks, and members of the subcommittee.

Thank you for inviting me to testify at today's hearing. My name is Rose Bartolomucci, I am president and CEO of Towpath Credit Union, a State-chartered and privately insured credit union headquartered in Akron, Ohio. I have been involved with credit unions since 1977, and most recently I was the credit union regulator under Governor Strickland for the State of Ohio, overseeing 200 State-chartered credit unions.

I am testifying on behalf of the Credit Union National Association, CUNA, the largest credit union advocacy organization in the United States. I am also currently a member of the CFPB's credit union advisory council. I would like to state that the views expressed in my testimony today are my own and those of CUNA, not those of the credit union advisory council of the Consumer Financial Protection Bureau (CFPB) or of the government.

CUNA supports all bills under consideration today, in particular, CUNA strongly supports H.R. 3584. This bipartisan legislation, introduced by Representatives Stivers and Beatty, would allow privately insured State-chartered credit unions the ability for membership in the Federal Home Loan Bank System.

This legislation corrects what we believe was a drafting oversight, which would affect a small number of credit unions like mine. When Congress allowed credit unions to join the Federal Home Loan Bank, the bill was drafted to apply only to an insured credit union as defined by the Federal Credit Union Act.

Had the legislation used a broader term such as State-chartered credit union, my 21,000 members would have access to additional lending resources, and we would not be here today.

The House of Representatives has recognized this as a problem, and passed legislation in 2004 and 2006 to fix it. In fact, in March of 2006, the bill before you overwhelmingly passed by a vote of 415–2. It has never seemed fair to our small institutions that some of the largest banks in the world, insurance companies that are not federally insured or a foreign bank's U.S. subsidiary can borrow from the Federal Home Loan Bank System, but we cannot.

H.R. 3584 would remedy this inequity and provide access to additional liquidity which would help us better serve our members. Despite the fact that credit unions affected by this legislation are privately insured, the bill would not present an inherent risk to the Home Loan Bank System. All advances from the System must be fully collateralized and subject to their uniform standards.

Mr. Stivers' bill makes it clear that the Home Loan Bank will have a superior lien over any assets it holds as collateral, irrespective of how the credit union's deposits are insured. In addition, the number of privately insured credit unions that might join the Home Loan Bank and the amount of advances associated would be a small fraction of combined outstanding advances of the System.

CUNA is also pleased to support the other bills under consideration today. H.R. 2672, introduced by Representative Barr, would direct the CFPB to establish an application process to determine whether a county should be designated as a rural area if the CFPB has not designated it as one.

It is important to credit unions because if the current definition stands, we will be limited in the products we can offer. We also support Chairwoman Capito's bill to address duplicative and inconsistent regulation. As CUNA has testified in the past, credit unions face a creeping complexity with respect to regulatory burden. It is not one new bill, but the complete effect of all regulatory changes, which challenge credit unions, especially small credit unions like mine.

We are expected to comply as quickly as large financial institutions to the onslaught of rules and regulations. Chairwoman Capito's legislation would help reduce regulatory burden by directing the Federal financial regulators to look at whether their proposed rules duplicate or are inconsistent with existing Federal regulation and to take all available measures to resolve inconsistencies before issuing rules.

If enacted, we believe that it could help ensure that future rulemaking is not unnecessarily burdensome.

Madam Chairwoman, on behalf of America's credit unions and their 98 million members, thank you very much for holding this hearing and allowing me to testify.

I would happy to answer any questions.

[The prepared statement of Ms. Bartolomucci can be found on page 42 of the appendix.]

Chairwoman CAPITO. I would like to thank you. And before I introduce our next witness, I would like to ask for unanimous consent to have the following statements made a part of the record: the Mortgage Banker's Association; privately insured credit unions; the Independent Community Bankers of America; the National Association of Federal Credit Unions; the South Bay Credit Union; the Conference of State Bank Supervisors; the MCT Credit Union; and the Los Angeles Firefighters Credit Union.

Without objection, it is so ordered.

Our next witness, as we have heard, is Mr. Thomas Richards, assistant vice president, Owingsville Banking Company, on behalf of the American Banker's Association.

Welcome.

STATEMENT OF THOMAS N. RICHARDS, ASSISTANT VICE PRESIDENT, OWINGSVILLE BANKING COMPANY, ON BEHALF OF THE AMERICAN BANKERS ASSOCIATION (ABA)

Mr. RICHARDS. Thank you, Chairwoman Capito. Chairwoman Capito, Ranking Member Meeks, and members of the subcommittee, my name is Thomas Richards, and I am assistant vice president of Owingsville Banking Company, headquartered in Owingsville, Kentucky. I truly appreciate the opportunity to represent the American Bankers Association at this hearing.

My bank is a small $63 million community bank that has served the county of Bath for 120 years. We serve a vital role in our community, making loans for houses, trailers, and even tailpipes for people trying to get back and forth to work.

We feel it is our duty to take care of our customers, no matter how small their need may be. I am pleased to comment on several proposed bills today.

First, I would like to comment on the clarity and regulations discussion draft introduced by Chairwoman Capito. ABA supports this measure, which would require a review of existing regulations that may be in conflict with or duplicative of new rules being promulgated by the banking agencies.

The mountain of new banking regulations continues to grow. For my bank, with only 26 employees, managing this large compliance burden has real consequences for our ability to meet the financial service needs of our customers.

This bill would help to eliminate conflicts among different regulations, eliminating additional compliance burdens as banks struggle to reconcile the differences that exist. This bill would help me and my colleagues get back to doing the business of banking.

We suggest the bill's scope be expanded to enable regulators to address instances where a targeted rule may have created an unintended compliance obligation, and also cover instances where a new regulation overlaps with other new regulations, not just existing regulations.

The issue of crushing regulation is a deeply personal one for me. Community banking has been part of my family's history for 120 years. It would be a travesty if the burden of unnecessary and duplicative regulation was to make my bank and those like it extinct.

It is my hope that the clarity in regulations discussion draft will help stem the tide of overly burdensome regulation and allow community banks across the country to continue to serve the needs of their customers.

ABA also supports H.R. 2672, introduced by Representative Barr. This bill would provide an appeals process for counties to be designated as rural for the purpose of exempting certain loans from the CFPB's Qualified Mortgage rule.

The CFPB has struggled with finding an appropriate definition. Its original definition of "rural," which the Bureau has appropriately put on hold, was far too narrow and was inconsistently applied, which would have had a dramatic impact on small lenders and communities. In fact, under the CFPB's original definition, Bath County, which covers 284 square miles, and has 12,000 residents in 44,000 households and a median income of $30,000, does not qualify, while neighboring counties with much larger and more urban populations do qualify.

From a small community standpoint, this can be devastating to the livelihood of that area. Thus, an appropriate exemption is critical to our ability to meet our community's needs. H.R. 2672 would help ensure that whatever definition of rural is ultimately used by the CFPB, there would be an avenue to appeal to the Bureau in those inevitable cases where a county may have been inappropriately excluded.

Finally, I would like to touch on the bill introduced by Representative Stivers, which would authorize privately insured credit unions to become members of the Federal Home Loan Bank.

We acknowledge that the Federal Home Loan Bank plays an important role in providing advances to portfolio mortgage lenders. The issue of concern is that the Federal Home Loan Bank claim preference in a credit union failure could be a significant blow to the private deposit insurer given its small pool of covered institutions.

This concern is obvious, given that there are only 137 privately insured credit unions. This is in contrast to the FDIC, which insures over 6,800 banks, and the NCUSIF, which insures over 6,600 credit unions. Thus, access to the Federal Home Loan Bank advances could increase the solvency risk of the private insurer.

That, in turn, could harm the existing members of the Federal Home Loan Bank, including my bank. It would be jointly and severally liable for any losses not covered by the private insurer.

In conclusion, the banking industry is prepared to work with this subcommittee to identify changes that truly will help banks meet the daily financial and credit needs of our customers.

Thank you all very much, and I would be happy to answer any questions.

[The prepared statement of Mr. Richards can be found on page 56 of the appendix.]

Chairwoman CAPITO. Thank you.

Thank you both.

And I will now recognize myself for 5 minutes of questioning.

I want to start with you, Mr. Russell. You said that your bank is a $63 million bank. Is that correct?

Mr. RICHARDS. Yes, ma'am.

Chairwoman CAPITO. And you have 26 employees.

Mr. RICHARDS. That is correct.

Chairwoman CAPITO. How many of the 26 employees are directly employed as a compliance officer? In other words, that is their primary responsibility.

Mr. RICHARDS. We have one employee who is designated as our compliance officer, and we actually have another employee who is designated as our assistant compliance officer. And she has more of a part-time role as far as her compliance duties go, but at least 1½ employees are dedicated to compliance in our institution.

Chairwoman CAPITO. And then, in terms of your own time and the other executives at the bank, I would imagine that you are spending more and more time because of the increased regulation on the compliance aspect.

Would that be a correct assumption?

Mr. RICHARDS. Yes, ma'am.

Chairwoman CAPITO. And if you are spending time on compliance and trying to weed through all of the regulations, what are you not doing in that space of time?

Mr. RICHARDS. We are not taking care of our customers. It really takes valuable time away from our customers. We are sitting in committee meetings worried about this language or that language rather than trying to figure out better ways to meet the needs of our customers.

Chairwoman CAPITO. I am curious to know, in a smaller financial institution—we know the large banks have a lot of folks such as attorneys, accountants et cetera, who can weed through the morass of the new regulations.

Who helps you with that? Or are you sort of left to your own devices?

Mr. RICHARDS. That is a good question. We don't have any on-staff attorneys, of course. It would be nice if we did. But we actually have to rely quite heavily on external auditors that are very costly. So that is another kind of impact that this compliance burden has on us; it is on our bottom line. We have to employ people outside of the bank to really help us get a grasp on these regulations.

Chairwoman CAPITO. Let me ask Ms. Bartolomucci a question on the regulatory burden.

You said you were the administrator for credit unions under the previous Governor of Ohio, correct?

Ms. BARTOLOMUCCI. Yes, I was the State regulator for 200 State-chartered credit unions.

Chairwoman CAPITO. Okay. Let me ask you this: Our bill says that before you can put a new regulation in, you have to make sure it is not conflicting with new—and I like the idea of making sure that the new ones don't conflict with the new ones, because we are seeing that. But better yet, supposedly Dodd-Frank was supposed to be weeding out all the new, old, updated, outdated and duplicative.

You are a former regulator. Did you ever remove any regulations during your period of time? Is this an impossible thing for a regulatory body to do?

Ms. BARTOLOMUCCI. I did not remove any duplicative regulations, but I don't believe it is impossible to do. We have regulation and with this body, we were—I was the regulator, State-chartered. And then, you have credit unions that are federally insured as well, and those overlap, and you are not quite certain when a regulator or examiner comes in, what direction they are going to take that specific regulation.

So I don't believe that it is difficult to do, to remove. We credit unions wear—small credit unions wear a lot of hats. And it is very difficult for us to be able to get through all the compliance and the overlapping compliance that is with us. And similarly, the—

Chairwoman CAPITO. Yes, how many folks do you have in your—

Ms. BARTOLOMUCCI. We have 47 employees. And similarly, we have one full-time person who handles compliance. And we share a compliance officer with two other credit unions. So, we feel as though the compliance is so burdensome that we have to have at least two full-time compliance officers. And similarly, we are not able to really take care of the needs of our members because we are always looking at the compliance burden and making certain that we are in compliance when our regulators come in.

Chairwoman CAPITO. I think the study that came out earlier this year by the FDIC basically said that it wasn't one particular regulation that was burdensome to the community banks. It was just a cumulative effect. And that is what I think Mr. Meeks and I are trying to get to in our bill here is to cease the cumulative—get to smarter, better, more efficient regulation that is more forward-thinking, as opposed to still having to jump through the old hoops while you are jumping through the new hoops.

When you are having this sort of overhang of regulatory—because I think some people misunderstand that if you want to do regulatory reform, the impression is you don't want regulation. I don't think that anybody here feels that way, including those who are the practitioners. But I think in order to do this, we have already heard that your core business functions are decreasing and you are unable to get to serve your customer in the best way that you possibly can.

So with my time expired, I will recognize Mr. Meeks.

Mr. MEEKS. Thank you, Madam Chairwoman.

Let me just ask, because one of the things that we want to do anytime you pass—moving forward with different bills, and you get some on the other side talking. I just thought we could clear up. And I will start with Ms. Bartolomucci.

Ms. BARTOLOMUCCI. Yes, thank you.

[laughter]

Mr. MEEKS. Just so that we could—because I have heard some say that privately insured credit unions might provide more of a risk, such that including them in the Federal Home Loan Bank System could be problematic. Are their sizes so large or the volume of their loans so significant that it could change the viability of the Federal Home Loan Bank?

Ms. BARTOLOMUCCI. My short answer is, no. There is no risk to the Federal Home Loan Bank with privately insured credit unions. Because of my unique background as the regulator for the 200 State-chartered credit unions in Ohio, I was also the regulator for American Share Insurance, that is in Dublin, Ohio.

And I was able to really understand their business model. They are a safe and sound institution. They are very well-capitalized and they do not pose—privately insured credit unions do not pose a risk to the Federal Home Loan Bank.

Mr. MEEKS. And how about—are there any consumer protection concerns? Should anyone be worried that consumers of these privately insured credit unions would be less protected?

Ms. BARTOLOMUCCI. Rest assured that the CFPB now governs privately insured credit unions. And privately insured credit unions must disclose to our members that we are privately insured. Therefore, credit unions do comply in that regard.

Mr. MEEKS. And Mr. Richards, let me ask you, are there any procedures in place, or do we have a process where small community banks or financial institutions could identify duplicative and conflicting or outdated regulations and address them before we add new ones there? Is there a process in place you think we could work with, with some of the regulators, so they can be identified?

Mr. RICHARDS. I'm sorry. I just want to make sure I understand the question. So, are you asking if there is a process in place currently to do that? Or if I have any suggestions as far as—

Mr. MEEKS. Suggestions.

Mr. RICHARDS. —how that process might take place?

Honestly, I think just having a panel of community bankers from across the Nation wouldn't hurt, just to get their input as far as what they feel are the most burdensome or the most duplicative regulations that are out there. Just as Chairwoman Capito said earlier, it is hard to identify one single regulation that is the burden, that is the bane of our existence, I suppose. It is truly the cumulative effect of it all.

So I feel like a panel of community bankers would be a great place to start.

Mr. MEEKS. I know you testified that your institution was erroneously classified as operating in a non-rural county.

Mr. RICHARDS. Yes, sir.

Mr. MEEKS. And that caused them to not qualify as a rural bank. Can you just explain to me how that happened?

Mr. RICHARDS. Certainly. It was kind of interesting, actually. I don't remember if it was in the late winter or early spring that I signed up for the e-mail list for the CFPB. And I received an e-mail saying that they had come up with a list of rural and/or underserved counties throughout the Nation that would be exempt from some of these new regulatory changes that are taking effect in January.

I opened up the attachment, and just kind of searching through, I took it for granted, I guess, that Bath County would be on there and was just absolutely shocked when I couldn't find it. And I thought, there has to be some kind of mistake here.

I wasn't too concerned at the time because I knew that we had quite a bit of time until the regulations came into effect. But I ended up writing a letter to the CFPB, to the FDIC, and to my Congressman, Congressman Barr. And I really couldn't get any solid answers. I have actually yet to hear back from the CFPB. I have contacted them multiple times and they keep saying a staff attorney will get ahold of me, but they haven't yet. So—

Mr. MEEKS. And so, the question is now, based upon what we are loooking at doing here, the resident or business owner can request that the county be designated as rural. And would that be then—I don't know if you know or not—going to the county leaders or to the representatives of the local community who are elected to make that designation? If such a process was created, do you have any idea how that would work?

Mr. RICHARDS. Honestly, no. I'm not quite sure, but I would be happy to get back to you at a later date.

Mr. MEEKS. My time has expired.

Chairwoman CAPITO. Thank you.

Mr. Duffy?

Mr. DUFFY. Thank you, Madam Chairwoman.

Just a comment on the bipartisanship. It becomes very challenging to get things to move in this institution unless we are getting both sides working together and signing on. And I think this is a nice example of people trying to work together, work out their differences early on so we have more hope of successfully moving this kind of legislation through both the House and the Senate. So I commend all the parties for their effort in working together.

There was a—I believe it was yesterday in The Wall Street Journal, there was an article talking about what has happened in the banking industry, where we have seen a consolidation. We have seen a high of 18,000 institutions in the country. It has now fallen below 7,000, an all-time low. Most of that restriction or consolidation has taken place with our smaller institutions, with $100 million of assets or less. And we have also seen in that article that there was a 3.2 percent drop in branches around the country.

Having fewer small banks and credit unions serve our communities, I don't think makes us a better-served country. I think it makes it more challenging for us. And I think that should be frightening for both sides of this aisle who care about small communities around the country.

And I guess to that point, there are probably a number of factors that take place in regard to why this is happening. But more recently, has that consolidation been occurring because of increased regulation and rules and the difficulty of these small banks and credit unions in their ability to comply? I will throw it to either of you.

Ms. BARTOLOMUCCI. Yes, Representative, absolutely yes. The compliance and the regulatory burden will take the lives of some of our credit unions and has, quite frankly. As I mentioned earlier, as a small financial institution, we wear many, many hats. And we continue to comply with all of the regulations. The resources—the people resources, the money resources—it takes to comply with some of these regulations, some credit unions just cannot do it.

And therefore, they seek out a strategic merger partner, which works well in some cases and maybe not in some other cases. But yes, it is very much so the reason why you are seeing a decrease in even credit unions building—small credit unions building other branches as well because the resources that are needed on the compliance side, we need the resources there. Therefore, the resources are limited when we want to either add a new product on or build a new branch.

Mr. DUFFY. Mr. Richards, do you agree with that?

Mr. RICHARDS. I sure do. I agree with Ms. Bartolomucci 100 percent. Being a $63 million bank with 26 employees, we are really just a small business. That is all we are. And to expect that we would have the resources to comprehend, to implement and to deal with these regulations at the same level as a Bank of America or a Wells Fargo, to me, it just doesn't make sense.

Mr. DUFFY. So, looking out on the horizon, do you see that the burden that your type of institutions face, that burden on the regulatory front is leveling off? Or is it only—is it increasing?

Mr. RICHARDS. I only see it increasing. And it is frightening. It truly is frightening. I am a fifth-generation banker at this bank, this same bank that was founded in 1893. And it scares me. I don't want to think that because of overly burdensome regulation, my bank might not be around in 10 years.

Mr. DUFFY. And it concerns me as well. As we continue this—the regulatory burden, we are going to see more consolidation or closure of these institutions, which will hurt our smaller communities.

Mr. RICHARDS. Exactly.

Mr. DUFFY. I want to get to one other point.

In regard to balloon laws, it is fair to say that most institutions will hold those loans on portfolio? And if the borrower doesn't repay the loan, who bears the loss?

Mr. RICHARDS. We do.

Mr. DUFFY. You do, right. So, it makes sense that you are going to go through a pretty aggressive analysis on their ability to repay it, because if they don't—

Ms. BARTOLOMUCCI. We lose.

Mr. DUFFY. Your institution loses, right.

So, for me, it is kind of hard to comprehend why these are included when you hold these loans on portfolio in the QM rule, because you are going to go through your due diligence because you bear the loss. You would agree with that, right?

Ms. BARTOLOMUCCI. I absolutely agree, yes.

Mr. RICHARDS. 100 percent.

Mr. DUFFY. My time is limited. If you—the Washington Post indicated that there were 15 official definitions of "rural." Do you agree with the definition of "rural" that the CFPB has used on the balloon loan rule?

Mr. RICHARDS. No.

Mr. DUFFY. My time is up. I will yield back.

Chairwoman CAPITO. Thank you.

Mr. Watt?

Mr. WATT. Thank you, Madam Chairwoman.

I appreciate you recognizing me, but, as the committee members know, I have been kind of in an awkward position the last few months, because there is a lot of speculation about whether the Senate will act to confirm me as one of the regulators. So, I obviously can't ask these witnesses any questions.

I can't comment on whether credit unions ought to be affiliated with the Federal Home Loan Banks, because the Federal Housing Finance Agency is the regulator for the Federal Home Loan Banks. Even though it has been Fannie Mae and Freddie Mac that have received all of the attention, they are under our jurisdiction, also.

I will be bold enough to say that while I haven't read the bill that you and the ranking member have introduced about duplicative regulations, I would, both in my role as a Member of Congress, and, I believe, in my role as a regulator, if I am confirmed, strongly support the notion of eliminating duplicative regulations, as long as it is done very carefully and thoughtfully, as I am sure the committee would do as it progresses. And having that additional impetus from a legislative perspective, I think, would add to the urgency of setting up a process to do that.

I probably shouldn't have even said that. But I just wanted you all to know that I support the notion, although I haven't looked at the details of how it would play out in the context of this bill.

In the event that this may be my last subcommittee hearing, I do want to express to the members of this subcommittee—and I hope to have the opportunity at some point to express to the members of the full Financial Services Committee—how much of a joy it has been to work on this committee, and to be a part of a lot of the decisions that have had impacts over the years—21 years now, almost, that I have been on the committee.

So, with that, I thank you for the recognition, and I won't ask the witnesses to concur or not concur in anything I have said. I will just simply yield back.

Chairwoman CAPITO. Thank you, Mr. Watt. And in the event that this is your final subcommittee meeting, we will miss you here, and the Congress will miss you generally. But in the event, you won't be going too far. And we will be looking at you from a different perspective, I think.

Mr. WATT. I feel that I will be back on the other—

Chairwoman CAPITO. Yes. Right.

Mr. WATT. —side of that desk at some point. And—

Chairwoman CAPITO. Could be in the hot seat.

Mr. WATT. —there is nothing that gives me more trepidation. [laughter]

Chairwoman CAPITO. Thank you very much for those great comments.

And I will now recognize Mr. Luetkemeyer for questioning.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

Mr. Richards, can you tell me, just very quickly, how many other banks are in your county?

Mr. RICHARDS. Yes, sir. There are two other banks besides us.

Mr. LUETKEMEYER. And how many people are in your county?

Mr. RICHARDS. There are 12,000 residents, I believe.

Mr. LUETKEMEYER. 12,000? Okay.

Why are the other counties around you considered to be metro or rural, whichever way they go? Is there a big town close by? Or why are you—

Mr. RICHARDS. There really isn't. There is a town called Moorhead, which is a university town. It is in a contiguous county, Brown County. But it is actually—that county has been designated rural.

So, that is a large town relative to Owingsville, but it is considered rural.

On the other side of us is Mount Sterling, which, again, is a small, little town. But it is considered a Micropolitan Statistical Area. And so it is considered to be non-rural. But the rest of the counties surrounding us are rural.

And there are even more ridiculous-sounding examples than that, but—

Mr. LUETKEMEYER. It is interesting, because where I live in Missouri, my county has 25,000 people in it. The next county over has

14,000, and is basically the same geographical size. And yet, it is considered a metro, and we are considered rural.

So, the discrepancy between us has to be solved. And I appreciate your being here, and being willing to talk about it.

I think at the end of the day, what we are talking about here is access to credit for the citizens. If you only have two or three other banks in the county, and if you are not competitive because of this—you are not able to offer all of the full range of products as a result of this—it makes access to credit for the customers or the consumers—it puts it at risk.

Mr. RICHARDS. That is correct.

Mr. LUETKEMEYER. Would you like to comment on that?

Mr. RICHARDS. I—

Mr. LUETKEMEYER. What your concerns are about that part of it?

Mr. RICHARDS. Really, my concern is with not being considered a non-rural county is the fact that without that designation, we would no longer be able to offer balloon loans. And, although in the northeast and in different parts of the country, balloon loans are almost unheard of, in the heartland and the middle part of the country, they are quite common. The bottom line is, not everybody can qualify for a 30-year fixed-rate mortgage, whether it be that they have some kind of irregular property—a mobile home or a large tract of land—they might not have a sufficient credit score, and yet they have paid us perfectly.

So, for those people who can't qualify for those secondary market mortgage loans, we are really all they have. That is why it is important.

Mr. LUETKEMEYER. In The Wall Street Journal today, there was an article that talks about how the big banks are losing market share because they have actually started downsizing some of their mortgage-lending activities. And the comment is made in here that it is easier for the smaller institutions to be able to tailor their products to the consumers so that they better fit their needs, their income levels, the way they live their lives, or whatever the economic situation is within the communities. And who better to do that than the community banks or credit unions who are close to the people themselves. And I think that is a great point. I think that is probably what you have been doing for the last 140 years, roughly.

Mr. RICHARDS. Yes, sir.

Mr. LUETKEMEYER. Ms. Bartolomucci here—I apologize on your name. It is like "Luetkemeyer." It is hard to spell, and nobody can get it right when they say it. So, I apologize.

Can you tell me the average size of the credit union that is a privately insured credit union?

Ms. BARTOLOMUCCI. It is, I believe, about $80 million.

Mr. LUETKEMEYER. $80 million?

Ms. BARTOLOMUCCI. I believe so. Let me get back to you on that.

Mr. LUETKEMEYER. Okay.

Ms. BARTOLOMUCCI. I am not exactly certain.

Mr. LUETKEMEYER. So, the average size of the loan portfolio on one of those institutions is, what?

Ms. BARTOLOMUCCI. I don't know.

Mr. LUETKEMEYER. Probably $70 million?

Ms. BARTOLOMUCCI. I am not certain.

Mr. LUETKEMEYER. Somewhere in that neighborhood? The guys behind you are nodding. I will take that as a—

Ms. BARTOLOMUCCI. Yes. I am not certain. I will get back to you—

Mr. LUETKEMEYER. I am not trying to put words in your mouth here. I am just trying to get an idea on the size of the institutions, the size of the risk that would be there if something should happen.

What do you see as the biggest problem with the QM rule that is out there today that we are talking about here with regards to rural and the definition that we talked about?

Ms. BARTOLOMUCCI. The issue, I believe, that we find is similar to the community banks—that we are very close to our members. We have teachers and we have telephone workers, farmers—people that we work with in our communities every day. We know those folks. They are members of ours. They have paid us back. They may not fit the model that is needed, so we want to portfolio those and—

Mr. LUETKEMEYER. So, you tailor your products to your consumers, as well?

Ms. BARTOLOMUCCI. We absolutely do. And that is an important aspect of what it is we do. And that is one of the reasons credit unions were formed many, many years ago, is to help the normal, everyday consumer build their lives and build a home—purchase a home economically and affordably. And—

Mr. LUETKEMEYER. It seems to be one of the problems of doing something from Washington—one size does not necessarily fit all. And this definition of rural and some of the other rules seems to be pigeonholing a lot of the banks to be—and handcuffing them to be able to actually give the consumers what they need to be able to live their lives and be productive.

So, I appreciate—I am out of time. I appreciate the indulgence of the Chair.

Chairwoman CAPITO. Thank you.

Mr. Hinojosa for 5 minutes.

Mr. HINOJOSA. Thank you, Madam Chairwoman. And thank you to our panelists for your insightful testimony.

As the chairman of the Congressional Rural Housing Caucus, I have been dealing with the varying definitions of "rural" for many years. Given that the definitions promulgated by the USDA are problematic on many counts, I was very concerned when I learned that the Bureau integrated them into their own definition.

The original rule by the CFPB would exclude Hidalgo County, which is in my congressional district in deep south Texas, south of San Antonio.

Hidalgo County has a large geographic size, with a population of 850,000 people. Hidalgo County includes some urban areas, but much of it is also rural. It is the county with the most colonias in the whole Nation. Colonias often lack basic infrastructure such as indoor plumbing, paved roads, and electricity. They should be included in any definition of rural.

We need to ensure that community banks and credit unions are not prevented from investing in rural communities such as our colonias.

The Bureau's new mortgage rules discourage the risky mortgage lending practices that led to the crisis. However, the Bureau agrees, as do I, that the smaller community banks and the credit unions did not cause the crisis and have a legitimate need for flexibility when it comes to serving rural America.

My first question is to Mr. Richards. Part one, in your experience, how does lending in rural America differ from urban and suburban areas?

Mr. RICHARDS. It differs in several different ways. First, I feel as though working in a small rural county, we have a very intimate knowledge of our customers. We know them personally. We go to church with them, our children go to school with their children. There is very intimate knowledge of them. So rather than just being a number, they are our neighbor, so we know them very, very closely.

Also, your type of structures differ quite a bit. In urban America, you are not going to have mobile homes, you are not going to have larger tracts of land that might go with your one-to four-family residential properties.

Mr. HINOJOSA. Let me give you an example. How does your bank approach balloon loans? What is your experience with balloon loans, and how does your community bank approach them?

Mr. RICHARDS. My bank doesn't originate loans to be sold off on the secondary market. We portfolio every loan that we make. And it is not feasible because of interest rate risk to make long-term fixed-rate loans. We can't portfolio a 15-year or a 30-year fixed-rate loan. So the only other alternative is to have a balloon loan, which fixes the rate of the loan for a moderate period of time—5 to 7 years, somewhere around there. Either that or offer some kind of hybrid adjustable rate mortgages.

And we find that our customers come to us for a reason. They want to bank with us. And balloon loans enable them to lock in those interest rates for at least a moderate period of time.

Mr. HINOJOSA. So if you were to write the definition of "rural" for the CFPB, what would be some of your main inclusions?

Mr. RICHARDS. I would think population density would have to be a major factor. To have 284 square miles with only 12,000 residents in what is obviously a pretty sparsely populated area, I would think the—

Mr. HINOJOSA. That would take care of small States. Big States like California, Arizona, New Mexico, and Texas would probably not fit into what you are talking about.

Mr. RICHARDS. I guess that is true. In addition to that, I suppose that you would also have to take into account what percentage of the workforce actually works in the agricultural area, which would help your larger States, such as California and Texas, I believe—what percentage of the population actually works in a farming capacity.

Mr. HINOJOSA. I yield back.

Chairwoman CAPITO. The gentleman yields back.

Mr. Stutzman?

Mr. STUTZMAN. Thank you, Madam Chairwoman. And thank you for the hearing today.

I want to thank both of the witnesses for being here and for your testimony. I find it very interesting and informative.

It is—going home and listening to constituents and especially credit unions and community banks, and the difficulties that they are facing right now—obviously, it affects them, but ultimately it affects my neighbors and constituents in northeast Indiana.

And there is a lot of opportunity that folks see, but they have difficulty going after those opportunities because of just the difficulty of access to capital and the uncertainty that is being created right now in the banking world.

I would like to start with a question for Ms. Bartolomucci regarding the credit unions. What would this allow for your members? What benefit would this give your members? Does it give them better access? Does it give them better certainty? Could you just comment regarding on how this would affect the members of credit unions?

Ms. BARTOLOMUCCI. Certainly, Representative. Are you speaking of the Federal Home Loan Bank access?

Mr. STUTZMAN. Yes.

Ms. BARTOLOMUCCI. Yes. Currently, we have 6,500 credit unions that have the opportunity to belong to the Federal Home Loan Bank. And because we believe when that was done, the privately insured credit unions were left out. What that means to our credit union is that my 21,000 members do not have access to liquidity, which equates to not being able to provide all the products and services that they deserve in their communities.

So that is a very important distinction that we would really like to have. It is about equality. It is about equality for our privately insured credit unions to have the same opportunities as other financial institutions.

Mr. STUTZMAN. So if the privately insured credit unions were permitted to join the Federal Home Loan Bank System, could that eventually put taxpayers at risk in a certain way or at some point?

Ms. BARTOLOMUCCI. Absolutely not—

Mr. STUTZMAN. And—

Ms. BARTOLOMUCCI. Not at all. When you belong to the Federal Home Loan Bank, you have to fully collateralize your advances. And how you are insured does not come into play, so you are fully collateralizing the advances that you are taking from the Federal Home Loan Bank, as any other financial institution would.

Mr. STUTZMAN. Also could you comment on—we have federally insured credit unions now, is that correct?

Ms. BARTOLOMUCCI. That is correct, yes.

Mr. STUTZMAN. Does this place any sort of distinction, or does that actually bring them both—a privately insured credit union, is—are they at the same protections? Do they have the same protections? Is there a disadvantage or an advantage to either one?

Ms. BARTOLOMUCCI. It is about the option, and there is no disadvantage of one over the other. Privately insured credit unions are as well-capitalized if not stronger than our counterparts, and there really is no distinction between being able to belong to the Federal Home Loan Bank. One does have the advantage over the other as far as that is concerned, because we do not have the option to belong at this point.

Mr. STUTZMAN. Okay, thank you.

Mr. Richards, I think you said the population of your county was roughly 12,000, is that correct?

Mr. RICHARDS. Yes, sir.

Mr. STUTZMAN. I was looking at the map of Indiana, and my home county, LaGrange County, which is between—is about 35,000 people, is actually classified as non-rural. And yours is 12,000—

Mr. RICHARDS. That is right.

Mr. STUTZMAN. Mine is considered rural and yours is non-rural.

Mr. RICHARDS. That is correct.

Mr. STUTZMAN. I am not sure the rationale behind all of this, but I am interested in seeing how some of these other counties in northeast Indiana are classified differently than my home county.

But going back to balloon loans, did you say you use balloon loans at your bank?

Mr. RICHARDS. We do, yes.

Mr. STUTZMAN. How do you use them? And what is your experience? Are borrowers looking to those as just an option for limited access, or how do you use them?

Mr. RICHARDS. We use them in a couple of different ways, primarily in one-to four-family residential mortgage loans. But we also use balloon loans for agricultural loans, and things such as that.

But as far as the one-to four-family mortgage loans go, our customers would use those for a couple of different reasons, really, for example, if they think they won't be in their house for more than the length of the term of that loan. If for whatever reason they see themselves moving in the next 3 to 5 years, it is a good way for them to get a cheaper interest rate than they would if they were trying to lock their loan in for 30 years fixed.

Also, for our customers, it allows them to lock theirs straight in for a period of time rather than taking on an adjustable rate mortgage or a hybrid ARM.

So for those reasons, our customers tend to choose that product.

Mr. STUTZMAN. Very good.

Thank you. I yield back.

Chairwoman CAPITO. Thank you.

Mr. Scott?

Mr. SCOTT. Thank you.

Welcome.

Ms. Bartolomucci?

Ms. BARTOLOMUCCI. Yes?

Mr. SCOTT. Did I get that right?

Ms. BARTOLOMUCCI. Thank you, Representative. Yes, you did. Thank you.

Mr. SCOTT. I practiced that, because I wanted to make sure I got it right. And I put the hyphens here.

I would like to, sort of, base my questions on what I think is—I am beginning to agree with you on H.R. 3584 for the Federal Home Loan Bank. But let me just ask you, why is it or was it that these privately insured credit unions, State-chartered, were excluded in the first place?

Ms. BARTOLOMUCCI. Representative, we are asking the same question. We believe it was just a drafting oversight in the legislation. And therefore, in 2006 it was overwhelmingly passed that we should have the ability to do so, and we are back here again today hoping that could be the case for us. Because my 21,000 members deserve to have the same opportunity and options for liquidity needs as all the other financial institutions.

Mr. SCOTT. Now, you mentioned 2,300—

Ms. BARTOLOMUCCI. We have 21,000 members.

Mr. SCOTT. But of those, the only ones affected are about 130 credit unions, is that right?

Ms. BARTOLOMUCCI. We have 132 privately insured credit unions in the country. My credit union has 21,000 members.

Mr. SCOTT. And two of them—two of those privately insured credit unions fall into a particular category that basically already sort of has them available for the Home Loan Bank, right?

Ms. BARTOLOMUCCI. Yes, correct, Representative. CDFI credit unions, community development credit unions that are privately insured, do have the opportunity to belong to the Federal Home Loan Bank. And currently, of the 132 privately insured credit unions, 2 of those credit unions are members of the Federal Home Loan Bank.

Mr. SCOTT. And if we were to place a value on these 130 that are excluded, would $18 billion, or in that area, of assets be an accurate statement?

Ms. BARTOLOMUCCI. I would have to get back to you on those statistics in my written testimony. I am not certain.

Mr. SCOTT. But one would say is a pretty sizable number, my information says is about $18 billion—$15 billion, $18 billion—

Ms. BARTOLOMUCCI. Of assets.

Mr. SCOTT. —of assets. So why is the objection—that is what I am trying to get at. Why is the objection there?

Ms. BARTOLOMUCCI. That is what we are asking for. We don't know.

Mr. SCOTT. Is there anybody saying that there are any risks?

Ms. BARTOLOMUCCI. There is absolutely no risk, Representative, for privately insured credit unions to be members of the Federal Home Loan Bank.

We are very well-capitalized. The American Share Insurance, who resides in Dublin, Ohio, has—

Mr. SCOTT. Okay.

Ms. BARTOLOMUCCI. —the nine States that they do business in, their regulators are in their shops. Once a year, there are about 20 people who go in, once a year, and examine—

Mr. SCOTT. All right, let me—

Ms. BARTOLOMUCCI. —American Share Insurance.

Mr. SCOTT. Let me ask you this, in the bill itself, it says that, which I think are some pretty good points, but in order to be eligible for membership, a privately insured credit union would need to receive a certification from its State supervisor, stating that it is eligible to apply for Federal deposit insurance.

Why is that in there? And what does that safeguard against?

Ms. BARTOLOMUCCI. I am not certain of the question, Representative?

Mr. SCOTT. Okay. Again, in the bill as written, it says that the private insurer of the credit union would be required to provide a copy of the credit union's annual audit report to the National Credit Union Administration, and the Federal Housing Finance Agency.

Ms. BARTOLOMUCCI. Yes, which we do—which is done currently.

Mr. SCOTT. Why is that? What does that safeguard against?

Ms. BARTOLOMUCCI. I suppose it would tell the Federal counterparts of the safety and soundness of privately insured credit unions.

Mr. SCOTT. Okay. And finally it states that in the bill as drafted, a State supervisor will be required to provide to NCUA, upon request, the results of any examination and reports concerning a private insurer of credit union's license in that State.

Ms. BARTOLOMUCCI. Yes, that is correct.

Mr. SCOTT. Okay. So the reason I point that up, and I will be very brief, is that it seems to me that you have a good case here. It seems to me that you have some safeguards in there. But the question remains why all of this is necessary? Is there something here that the taxpayers or the consumers need to be protected from, as to why they have these hoops and loops for you to be moving through, that the other folks don't have?

And I think if we get to the bottom of that, we would be fine.

Ms. BARTOLOMUCCI. Yes. We have all the safeguards in place that any other financial institution would have.

Again, we have the CFPB that now governs the disclosures of privately insured credit unions. We have our—each of us have our State regulators that come into our shops at least once a year.

We also—our credit union has our independent CPA firm that comes in quarterly and monitors. And privately insured credit unions are very safe and sound.

Mr. SCOTT. All right.

Ms. BARTOLOMUCCI. And so, we would really love to have the ability for 132 across the country, credit unions, to just have the ability to be able to join the Federal Home Loan Bank, and be able to provide liquidity into our communities to help our firefighters in California or telephone workers in Ohio be able to have access to credit and more products.

Mr. SCOTT. Thank you very much. And thank you for the extra time, Madam Chairwoman.

Chairwoman CAPITO. Thank you. Mr. Pittenger?

Mr. PITTENGER. Thank you, Madam Chairwoman, for hosting this hearing, and thank you witnesses, Ms. Bartolomucci and Mr. Richards, you have both done an admirable job.

I would like to ask you, Mr. Richards, the ADA conducted a survey of compliance officers in 2011. They found that 45 percent of the banks stopped offering loans or deposit accounts because of increased compliance cost.

And if 43 percent of these banks quit offering additional services, or chose not to go into other geographic locations, could you share with us what these associated compliance costs, how they have impacted you and your ability to extend credit?

Mr. RICHARDS. Certainly. Beyond the simple manhours that we spend on compliance, we spend a significant portion of our annual budget on compliance audits, BSA audits, information technology audits, all types of things that make sure that we are in compliance with the various regulations.

As far as curtailing the type of products that we offer, we are actually no longer offering 3-year balloons because of the changes in the regulations that the CFPB has proposed for January 2014. And depending on how the exemption works out, we may stop offering balloons altogether.

So it definitely does have an effect on how we serve our customers.

Mr. PITTENGER. Thank you. Ms. Bartolomucci, and also Mr. Richards, are you concerned that the regulations could force your institutions to limit the offering of certain financial products to consumers, generally, and to low-income consumers, specifically?

Mr. RICHARDS. Yes.

Ms. BARTOLOMUCCI. Yes.

Mr. PITTENGER. Could you elaborate on that?

Ms. BARTOLOMUCCI. Again, with the high cost of compliance, we employ one full-time person in our office who also wears many other hats, but then we also share a compliance person. Those resources that we are extending toward that, we could be placing toward more products and services or high-tech electronic services that our members would want.

And obviously, we want to stay in our communities for our members. We are hoping that this burdensome regulation can at least be minimized in the future so that we can continue to provide the great services that we were chartered to have.

So, it is absolutely burdensome.

Mr. RICHARDS. Congressman, if you don't mind, I would like to add something, too.

Mr. PITTENGER. Sure.

Mr. RICHARDS. One of our major concerns with the ability-to-repay requirements that are going to be taking effect in January 2014, is what to do with refinanced balloon loans that come due? As it stands right now, if a refinance comes up, and for whatever reason, a customer's income might have decreased over the term of the loan, and on paper, they can no longer—they are above that threshold that the CFPB has set as indicating whether or not they can afford that loan.

We don't know if we are going to be able to make that loan. We don't know if we are going to be able to refinance that because of the legal risk that could come with stepping outside of that safe harbor. So we really don't know what is going to happen there. It is kind of an unknown right now.

Mr. PITTENGER. Thank you. I would like to ask you, as well, Mr. Richards, many community financial institutions have stated that the disproportionate impact, the ever-mounting regulatory burden is significantly reducing their profitability and causing consolidation in the industry.

Could you explain the negative consequences that result from this consolidation, what effects it has on the local as well as the national economy? And just how you all view that, is that a concern to you all in the future?

Mr. RICHARDS. Certainly. As a $63 million bank, it is very concerning. We don't have the asset size that a regional or super regional bank has to spread those fixed costs over.

There is a certain minimum cost we have to expend every year because of compliance reasons. And consolidation is definitely a direct result of that.

As far as how we view consolidation, I see it as less competition out there, and I see it as harming the consumer, ultimately.

You have fewer competitors out there, going after the same customers. I can't see how that would not harm the consumer.

Mr. PITTENGER. Very good, thank you.

Thank you, Madam Chairwoman. I yield back.

Chairwoman CAPITO. Thank you. Mr. Green?

Mr. GREEN. Thank you, Madam Chairwoman, and I thank the ranking member as well. And I thank the witnesses for appearing.

I would like for you, this morning to help me with a dilemma. We use the term "small bank" and "community bank" quite often, interchangeably. And I am trying to get some sort of definition that I can work with for the term, "community bank."

So please allow me to ask you a few questions, and I will also take a stab at your name, Ms. Bartolomucci?

Ms. BARTOLOMUCCI. Yes.

Mr. GREEN. And Mr. Richards. Would you agree that a bank that has assets of $100 million, that this is a small bank, $100 million?

Mr. RICHARDS. Quite small—yes, quite small.

Mr. GREEN. Quite small. Would you concur, ma'am?

Ms. BARTOLOMUCCI. For credit unions, I would say, Representative, for a small credit union, it would be $50 million and under.

Mr. GREEN. For our purposes, for this moment in time, if we may—let's stick to banks just for the moment.

Ms. BARTOLOMUCCI. Okay.

Mr. GREEN. And that may be on what you would call your level of expertise, but I am interested in your opinion. Would that be a small bank, $100 million?

Ms. BARTOLOMUCCI. I would say so, yes.

Mr. GREEN. Would you agree that a $100 billion bank is a large bank?

Mr. RICHARDS. Yes.

Mr. GREEN. Ma'am?

Ms. BARTOLOMUCCI. Yes.

Mr. GREEN. So somewhere in between $100 million and $100 billion, would you agree that $100 billion is a large bank and is not a community bank? Let me ask this before I go on. One hundred billion is not a community bank?

Mr. RICHARDS. I wouldn't want to say that the definition of a community bank is necessarily based on asset size.

Mr. GREEN. I understand, but we will deal with asset size for the moment.

Would a $100 billion bank be a community bank?

Mr. RICHARDS. I would say most likely not, but I wouldn't want to say definitively no.

Mr. GREEN. All right. And ma'am, would you agree that a $100 billion bank is not a community bank?

Ms. BARTOLOMUCCI. Representative, I don't believe I have the expertise in the banking area to answer that question.

Mr. GREEN. I understand. And this is the dilemma that we have. Because we start out talking about doing things for small banks and community banks, but when we end up looking at what we will actually accomplish, the rules then move to $100 billion banks. And I am a strong supporter of what I believe to be a community bank and a small bank. And I would like to see some regulations softened for small banks and community banks.

I have talked to enough of these bankers to understand that they do have some legitimate concerns about regulations and the regulatory burdens to which they have to adhere. But when we try to craft rules, we find ourselves moving from small community banks to positions where folks are reluctant to say that a $100 billion bank is not a community bank.

So, if a $100 billion bank is not a community bank, how do we craft the rules to impact the banks that I think you really want to see impacted? Do you follow where I am going, Mr. Richards?

Mr. RICHARDS. Yes, I do follow where you are going. Yes, sir.

Mr. GREEN. Yes, so, at some point, we do have to make some decisions about whether a $100 billion bank is going to be a community bank. Now, if you think a $100 billion bank is a community bank, you will make it very difficult for me to support the rule that will impact community banks. Because we are talking about pretty much all banks.

So, how do we get to this point of demarcation, wherein we understand the legitimate difference between big, big banks and small banks and community banks?

Mr. RICHARDS. I think a major difference between what you might call a mega-bank, or your kind of Walmart of banks and a true community bank is the fact that community banks really do tailor their products and services to their customers, while—

Mr. GREEN. If I accept that as a definition, then we can accept any bank as a community bank. All banks can be community banks. And maybe that is the world we are in, where all banks are community banks.

But when we talk about these things in terms of making rules to soften the regulations, we conjure up in our minds the image of an institution that is smaller. But if we are going to do this for all banks—if all banks are community banks, because of size, size doesn't matter—then we probably are going to have to start to talk about small banks, as opposed to community banks. Because it loooks like the term, "community bank," based upon most of what I am hearing, applies to all banks.

I will have to yield back, because I am over my time.

Thank you, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

Mr. Barr?

Mr. BARR. Thank you, Madam Chairwoman.

And thank you to our witnesses today. Mr. Richards, again, thank you for coming to testify here about the challenges that Kentucky community banks face, complying with all of the dizzying array of regulations—the avalanche of red tape that comes out of the Dodd-Frank law and the CFPB.

And one of the things that I would—one of the takeaways—what I—the conclusion that I draw from both of your testimony here today is that, although we in the United States pride ourselves as having a government that is a representative government, we are a government that depends on the consent of the government.

And that we talk about the importance of understanding the unique needs and concerns of our constituents—that when Congress and the elected representatives of the people delegate away our power to unaccountable, unelected directors and regulatory agencies like the CFPB, there becomes a huge disconnect between the realities that the American people face on a day-to-day basis and what the Bureaucrats in Washington do in terms of designations and administrative decisions.

And here, we have a classic example of a designation of a county like Bath County, Kentucky, as non-rural.

So, Mr. Richards, for the benefit of all the Members of Congress on this panel, and for folks here in Washington, D.C., as a fellow Kentuckian please elaborate on your testimony about the rural nature of your home county.

Mr. RICHARDS. Certainly. I wish I could take you all to that county so that you could see what we are talking about. It has two stop lights, but only one real stop light. The second stop light is for a crossing for schoolchildren.

And it has three major towns, if that is what you want to call them, and several other smaller communities.

We have quite a large Amish population, so it is not unheard of to see a horse and buggy going down Main Street. So, it is just a picturesque rural Eastern Kentucky town.

Mr. BARR. And I think, Mr. Richards, you testified that there are only two other banks in your county.

Mr. RICHARDS. That is right.

Mr. BARR. Could you talk about, once again, when you made that discovery, that the Consumer Financial Protection Bureau had classified your county as non-rural? When you made that discovery, what impact did you see that having on not just your bank, but the community of Bath County?

Mr. RICHARDS. What I saw it doing was restricting what products Bath Countians could get from their banks. It just blew my mind when I saw that they hadn't thought that we were a rural county. And I just see it as taking something away from them—taking an option away from them. If that is—if they want to take out a balloon loan, they might not be able to. They don't want to do business with them.

Mr. BARR. And, Mr. Richards, if your bank was denied the ability to originate the loans, and offer this product offering to the citizens of Bath County—if balloon loans were denied Qualified Mortgage status in your particular rural community, what impact would that have on your bank and your customers? And as you answer that question, describe for the panel the type of customers who are served by your bank.

Mr. RICHARDS. Certainly.

A large percentage of our customers are on public assistance—Social Security, fixed incomes. To deny them access to credit when they qualify for it, I think, is a disservice to them. They have chosen our bank because they like doing business with us. And so, if, for whatever reason, we are no longer allowed to offer those products and services to them, I don't see how it could be anything else but a disservice.

Mr. BARR. And this would be—and you make decisions—these are portfolio loans, so you are making a business judgment. You are retaining the risk, so you are going to—

Mr. RICHARDS. That is right.

Mr. BARR. —your incentives are aligned with the borrower to make sure that it is not only access to mortgage credit, but it is responsible mortgage credit. Your incentives are aligned. You are not turning around and selling these into the secondary market, is that right?

Mr. RICHARDS. That is correct. We have no incentive for our borrower not to pay us back.

Mr. BARR. My time is running out. I want you to make—as a fifth generation banker—one final comment. And that is, as a fifth generation banker who—and a bank that survived the Great Depression and 140 years of the banking business, I think I heard you testify that you are worried that in 10 years, with this avalanche of regulation, you may not be in existence anymore.

Can you speak to Dodd-Frank as the greatest threat to your bank in 140 years?

Mr. RICHARDS. Certainly.

It is crazy to me to think that we have made it through the Great Depression. We have made it through the stagflation of the 1970s, the 1980s. And yet, it is not a crisis of the market that poses a threat to us, it is regulatory. It is completely manmade. It is just crazy to me. And it is frightening. It truly is frightening.

Chairwoman CAPITO. Thank you.

Mr. BARR. Thank you.

Chairwoman CAPITO. Mr. Lynch?

Mr. LYNCH. Thank you, Madam Chairwoman. I want to thank the witnesses, as well, for their willingness to help the committee with its work.

Just off the top, I would like to just address the discussion draft here for a moment.

The language in the discussion draft would basically stop all regulatory activity in every single agency. And I just want to say right up front, I have enormous respect for the chairwoman and for the ranking member. I think they are two of the finest legislators that we have in Congress today. But I have to say that this is not your best work.

I realize it is a discussion draft. And, again, I—it pains me, because I do have such enormous respect for both of you. But I think that this legislation—this discussion draft would basically stop any effort by the CFPB, or any other agency, any other department, from really doing its job.

It would basically require each and every agency—each and every separate regulator—to—before they issue any regulation, to go back and do a full examination of whether their regulation conflicts somewhere else, or is in harmony with, or is related to any other regulation. And then to report back to Congress on their investigation.

It completely ignores the fact that we in Congress—let's take the Dodd-Frank Act. We have introduced change in the system. So, we put a law out there. But rather than going through all the finer details of how that law works, and do them here in committee, and discuss them among 435 Members of Congress—which would take forever, and it would have mixed impact—we say to the regulators, "Here is your mandate. We want you to change the law. Go out and do it."

So, these regulators, like in the Volcker Rule, finally coming up a year after our deadline—they are going to change the law. They are going to change the law at our request. Under this bill, they would have to—each of those separate agencies would have to do a full forensic examination of the new law that we have put in place to determine whether that law is inconsistent with any other Federal regulation.

Now, we are the ones who implemented this whole process. So, this creates a circular firing squad among the regulators. This stands on its head the whole purpose of having the regulations to begin with.

So, I just can't say enough of how—look, I have seen some bad legislation, but this is right up there, I have to say. And we have seen some bad legislation in this committee, God knows.

But this is a doozy. So I just—and again, it doesn't reflect on my impression of the competency or the professional and the public service of the sponsors here. I think this is just a bad bill. This is a bad bill.

I think that the purpose here is to gum up the works so that in the case of the CFPB, the Consumer Financial Protection Bureau, they cannot protect the consumer. That is the end result, at the end of the day, of this bill on the CFPB.

And I think there are some folks out there, in the financial services industry, who are just delighted with that fact.

But I know the sponsors and I know how committed you are to protecting consumers, and that is why I say that I don't think the discussion draft is worthy of your sponsorship.

I think it is a terrible bill, and I am hoping we have some second and third thoughts about this.

May I ask, ma'am, you mentioned that there is no risk to the taxpayer in allowing private insurers to go in with the Federal Home Loan Bank System. But in fact, if a bank fails, and that insurer—that private insurer, there is a reason there are only 132 banks and 9 States out of 50, that allow private insurance for their credit unions.

Now, if that insurer fails, if they are in the Federal Home Loan Bank System with FDIC insurance and National Credit Union insurance fund insurance, if their claims don't get answered by the insurer, at the end of the day, those come back on the taxpayer. That is where the risk is.

It is not a risk that is directly critical of your credit unions; it is of the private insurer. That is where the exposure comes. I know a lot of my—a lot of the members here have been asking about exposure to the taxpayer, that is where it comes, it is when the insurer goes down and there isn't enough resources to answer all claims.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. LYNCH. Oh, thank you, I yield back.

Chairwoman CAPITO. Mr. Posey?

Mr. POSEY. Thank you, Madam Chairwoman.

It seems there is never a shortage of omnipresent defenders of the nonexistent problems of the people. I wonder how many people each of you have in your compliance department?

Ms. BARTOLOMUCCI. Representative, Towpath Credit Union has one employee who works in compliance but also wears many other hats. And then, we share a compliance officer with two other credit unions.

We cooperate within credit unions and we share resources and people and funds. So, one-and-a-half.

Mr. POSEY. How many did you have in 2007?

Ms. BARTOLOMUCCI. None.

Mr. POSEY. Mr. Richards?

Mr. RICHARDS. Congressman, my bank has one compliance officer, and just like Ms. Bartolomucci, he also wears many hats. And then, we also have an assistant compliance officer, so one-and-a-half, essentially.

Mr. POSEY. How many did you have in 2007?

Mr. RICHARDS. We had one.

Mr. POSEY. Okay. What are the regulations, same question to both of you, that you feel are most burdensome to your institutions?

Mr. RICHARDS. For me, Congressman, it is not one specific regulation that I would point to as being the most burdensome. It is simply the cumulative effect of one layer of regulation being laid on top of another layer, on top of another layer. It is simply that cumulative effect that really hampers us.

Ms. BARTOLOMUCCI. Representative, agreed. It is just the constant amount of changes in the regulatory environment which causes our credit union to continue spending the resources of our members.

So it is just the continual, constant—as I make the regulation and then stop so that we can take a breath and work with our members.

Mr. POSEY. Somebody told me that there are no two institutions in the Nation that do a home loan disclosure exactly alike. They have made that so confusing with the changes to it.

How about regulations regarding what is placed on accrual or non-accrual? We have heard from people who had regulators come in, for example and say, we don't think this motel should be able to make their payments right now, given this tough economy.

And the bankers say, well, it is a 30 percent loan-to-value ratio, it is an 11-year old loan. And they have never been 1 minute, not 1 second late, in this whole time. There is no problem with this, and the regulator said, well, we don't care, we are putting it on non-accrual, we don't think they should be able to make their payments.

Did you ever have an experience like that?

Mr. RICHARDS. I think that is a perfect example of regulator roulette; you really don't know what you are going to get in an exam. There could be one examiner that might give you one answer and another examiner that might give you a completely different answer.

So that is—that regulatory risk. And yes, we have seen that in our institution before.

Mr. POSEY. Okay.

Ms. BARTOLOMUCCI. We know that regulators have their job to do, as we have our job to do. And we really try to work as best as we possibly can with our regulators. And there is, from time to time, we agree to disagree, but at the end of the day, they are the regulator.

Mr. POSEY. I have heard quite a few over-regulator horror stories. Obviously, very few people are willing to come forward and say, now look, because they tremble at the repercussions they could get from the regulator.

They said, well, we might win this battle, but we will be penalized in so many more ways. When it seems oftentimes they are not supposed to, I guess, by regulation, put something on non-accrual because it is upside down or on appraisal, but they do it anyway.

And the bankers are afraid to complain about it.

Ms. BARTOLOMUCCI. In my unique role as the regulator in the State of Ohio, I took the position of really partnering up with our credit unions and really trying to work with them. Because our credit unions are really trying to do the right thing everyday and all day long.

And so, that is the stance I took. And we would work with them because they knew what they were doing, they may have fallen on some hard times because of the economy, and we were able to work with them to bring them back through that economy, and withstand all the pressures of the regulatory environment.

Mr. POSEY. Have you ever heard of the OCC people doing that?

Mr. RICHARDS. No, sir, I have not.

Mr. POSEY. I see my time is up, Madam Chairwoman, thank you, I yield back.

Chairwoman CAPITO. Thank you. Mr. Murphy?

Mr. MURPHY. Thank you, Madam Chairwoman, and Ranking Member Meeks, and thank you to the witnesses.

My first question, kind of adding on to what Mr. Posey was asking there. Regarding uncertainty, as it relates to QM, a lot of the small community bankers, et cetera, in my district, that I talk to have been happy with the CFPB sort of responding to industry concern regarding QM.

But as it relates to uncertainty, do you think it is worth it, continuing to go back to the well to try to improve QM, knowing that is going to add more uncertainty and another x-number of months, and more regulation, more red tape, et cetera. So where do you draw that line?

Mr. RICHARDS. I do actually think it is worth it, because it is my understanding that the actual final—the final reg Z changes have only been decided upon within the last several weeks. And I just don't see how that is enough time to fully incorporate those changes into our program.

So yes, I do think it is worth taking the time to make sure that everybody is on board, everybody has a complete understanding as far as what these regulations truly mean, and to get it right.

Mr. MURPHY. And do you have a couple of things off the top of your head that you think are priority items we should be looking at?

Mr. RICHARDS. As far as the QM regulations go?

Mr. MURPHY. Yes.

Mr. RICHARDS. I think that something that definitely needs to be looked at is the rural and underserved designation. I think that is a top priority. Also something that we are concerned with is what do we do if we have a balloon loan that matures and we are supposed to refinance it and all of a sudden it doesn't meet these ability-to-repay requirements, are we supposed to go on and make that loan, even though we know it is not QM, and we know we could be potentially sued for that loan?

So, I think there are a lot of questions out there. And honestly, I don't know if banks are going to make non-QM loans as a result of this legislation.

Mr. MURPHY. Sort of adding on the same train of thought there, Mr. Barr brought up this point regarding Dodd-Frank. What, in your opinion is the additional regulatory compliance to lenders for the safest loans, for the—30-year fixed-rate, good debt-to-equity ratio, et cetera. What is the added cost there, not the really risky ones, just the most conservative mortgages?

Mr. RICHARDS. I didn't quite understand your question, I'm sorry.

Mr. MURPHY. What, in your opinion, is the additional regulatory compliance cost for the safest of loans? Because they didn't cause the crisis, it is the more risky ones. I am wondering if we are punishing sort of the good actors.

Mr. RICHARDS. I see what you are saying. So what in my opinion—what is hard about making a 30-year fixed-rate loan, I guess?

Mr. MURPHY. Do you feel as though the cost of issuing those are going up?

Mr. RICHARDS. As a result of the QM rules, and everything else?

Mr. MURPHY. Yes.

Mr. RICHARDS. Honestly, I don't know that I have enough expertise to answer that because we don't originate loans for the secondary market; we portfolio everything that we make. But I would be happy to get back to you, in writing, at a later date.

Mr. MURPHY. Okay. Thank you.

And I am going to yield my remaining minute-and-a-half or so to Mr. Green.

Mr. GREEN. I thank the member for yielding.

Mr. Richards, let's revisit our previous conversation. You seem to make a distinction between your bank, with its assets and the number of compliance officers that you have, and the megabanks and the number of lawyers and compliance officers that they have. Is this a fair statement?

Mr. RICHARDS. Yes.

Mr. GREEN. If this is true and you are concerned about banks your size, whatever that happens to be, size matters. So the question is, where is the line of demarcation?

Mr. RICHARDS. That is a—

Mr. GREEN. Where—let me finish, because it is important to know when we cross over that line, if I am genuinely concerned about small banks. I have been into many now, I have actually taken the time to go in. I am convinced that there are some needs that should be met.

The dilemma arrives when we start to try to meet the need, we find ourselves going beyond what I see as small, and we get to mega. The question is, where is that line? And the small bankers at some point are going to have to take a stand because if you don't, you are lobbying for all banks. That is going to be a difficult lift.

So we want to help with the compliance needs of small banks. Where is the line?

Mr. RICHARDS. I agree with you, it is a very difficult question to answer. I don't think that there is a stark line that any one person can draw.

Mr. GREEN. How can I help you if you want help, but the help that I accord is for everybody?

Mr. RICHARDS. I think the real delineation comes where we tailor our products and services to our customers. I think that is the major delineation.

Mr. GREEN. There is not a bank in the country that won't indicate that they tailor their products—

Mr. RICHARDS. I disagree.

Mr. GREEN. —to their customers. Every bank will tell you, "we do that."

Chairwoman CAPITO. The gentleman's time has expired.

Mr. GREEN. Thank you, Madam Chairwoman.

Chairwoman CAPITO. Mr. Stivers?

Mr. STIVERS. Thank you, Madam Chairwoman. Thank you for holding this hearing. And thanks for allowing me to sit in. I would like to ask unanimous consent to add a letter from the Ohio Credit Union League to the record.

Chairwoman CAPITO. Without objection, it is so ordered.

Mr. STIVERS. Thank you. Thank you, very much. Ms. Bartolomucci, I would like to thank you for your service to my home State of Ohio as the supervisor of credit unions under the Strickland administration. I think we barely crossed paths. I left as a State senator in 2008, so you were there for a little bit while I was there. And I want to thank you for that service.

I want to go through two things with you, and then I do have a couple of questions for Mr. Richards.

I want to talk about scale, and this is going off of some questions that I know Mr. Luetkemeyer asked. So, there are 132 privately insured credit unions across the country. They have $13 billion in combined assets, but they have other products. They wouldn't, all those $13 billion would not use the Federal Home Loan Bank because there are other products that they would have—car loans, that they would have other uses for those assets.

What type of scale do you think, of that $13 billion, would be drawn on the Federal Home Loan Bank at any one time? Would it be less than $1 billion?

Ms. BARTOLOMUCCI. I believe that it would. When you look at the borrowers of the Federal Home Loan Bank, you have insurance companies that borrow the total sum of what the assets are of our privately insured credit unions. So, yes, Representative Stivers, you are correct.

Mr. STIVERS. And so that is on—that is about $1 billion on a $430 billion outstanding advance in the Federal Home Loan System. So to look at the scale, this is tiny. We are talking about the gnat on the back of some other bigger animal.

Ms. BARTOLOMUCCI. Yes, it is about equality for privately insured credit unions to be able to have access to liquidity for their members.

Mr. STIVERS. Great. And now let's talk about the layers of protection. And so, the first layer of protection is that private insurance companies are capitalized with equity. In fact, the private insurance company that is from Ohio, American Share Insurance, is actually better capitalized than the National Credit Union Insurance Fund today. They have a better equity ratio and all their loss exposure is actually reserved on their balance sheet, which actually makes them—doesn't that make them actually less risky than the Federal insurance program, outside of the fact that the Federal insurance program has a very implicit government guarantee?

Ms. BARTOLOMUCCI. Yes. American Share Insurance is very well-capitalized. They are 1.6 percent capitalized, which makes them the strongest fund.

Mr. STIVERS. The adequacy of their loan loss reserves and the private insurance companies also must be attested to by independent actuaries every year. Is that correct?

Ms. BARTOLOMUCCI. That is correct. Yes.

Mr. STIVERS. And then, they are regulated by the nine State insurance departments in the nine States that allow private insurance.

Ms. BARTOLOMUCCI. Yes, and they are also regulated by the Department of Insurance in Ohio and the Department of Commerce Division of Financial Institutions in Ohio.

Mr. STIVERS. And a final layer of protection, any of those loans that use the Federal Home Loan Bank, and I know you mentioned this earlier, also have to be fully collateralized. Is that correct?

Ms. BARTOLOMUCCI. That is correct.

Mr. STIVERS. So we are talking about a tiny percentage, one in 400, one four-hundredth, and we are talking about fully collateralized loans and an insurance fund that is actually better capitalized than the Federal plan. Is that correct?

Ms. BARTOLOMUCCI. That is correct. Yes.

Mr. STIVERS. So, seems like a no-brainer to me.

Ms. BARTOLOMUCCI. It is a no-brainer.

Mr. STIVERS. So Mr. Richards, by the way, I grew up in Ripley, Ohio, just across the river in Brown County, and I am a fourth generation community banker. My great-great-grandfather founded the Citizens National Bank of Ripley, Ohio, which my father sold in 1986. So we didn't quite make it to 140 years, but we were pretty close.

And I do want to tell you, I support both of the bills that you support. You have concerns about my bill, but I support the other two bills that you support. Tell me, when you have two regulators that have conflicting regulations, how do you choose which regulator to follow?

Mr. RICHARDS. That is a great question. I don't think there is a right answer there.

Mr. STIVERS. There is no right answer, but that makes the point of why we need Chairwoman Capito's bill. So thank you very much for that.

Mr. RICHARDS. I agree.

Mr. STIVERS. The second thing is, I guess I have a philosophical question. Do you believe the government or free enterprise is better at pricing risk?

Mr. RICHARDS. I believe free enterprise is.

Mr. STIVERS. Great. And, the flood insurance, FHA, GSEs—I agree with you completely. With that in mind, I would say that maybe we should look at, given that these private insurance companies are better capitalized than the Federal funds, maybe we should allow our private State insurance commissioners to actually regulate the FDIC and the National Credit Union Insurance Fund. That is just a statement. I am not asking for your opinion.

I yield back. Thank you.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Heck?

Mr. HECK. Thank you, Madam Chairwoman.

Ms. Bartolomucci, I am from Washington State. And as such, I don't have a lot of knowledge about the role of private insurance funds. But I am vaguely aware that we went through a pretty rough patch back in the 1980s and 1990s, particularly in Rhode Island.

And I think it is always instructive to kind of remind ourselves what the lessons are that were learned, and especially how they relate to today's practices. Can you give me a brief paragraph on that, please?

Ms. BARTOLOMUCCI. Yes, Representative. My understanding back in the early 1980s with Rhode Island and private share insurance, that had to do with the S&L debacle back in those days. If you fast-forward to today, American Share Insurance is the share insurance in the country. And they have withstood the test of time, time and time again for many decades.

If you look at what we just went through, the economic crisis that we just went through, American Share Insurance is a success story. They are strong. They are viable. They—

Mr. HECK. Is that because they changed their practices?

Ms. BARTOLOMUCCI. When you say "change their practices," they are very diligent—

Mr. HECK. Charged more, kept more in reserves, whatever—

Ms. BARTOLOMUCCI. Yes, they are very diligent in having many CPA audits. The regulators in those nine States go into American Share Insurance once a year. The actuarial studies—they have international actuarial studies conducted. The Ohio Department of Insurance governs or regulates them, as well as the Ohio Department of Commerce, Division of Financial Institutions.

They most recently—the State of Nevada was hit very hard, and one of the credit unions that is privately insured, American Share Insurance, was able to inject capital into that credit union so that credit union could continue being the viable entity in that community for the teachers. It is a teachers' credit union. And today, that credit union is doing extremely well.

And so American Share Insurance, and again my unique background being a regulator, I regulated American Share Insurance. I really understand their business model and how that company works. It is truly a genuinely good business model for credit unions.

And so American Share Insurance is a success story, and they are doing very well. And all the statistics will show you their information, their financials and their examinations will show you that they are the strongest fund—share insurance fund.

Mr. HECK. Good. Thank you.

Mr. Richards, you wouldn't have any way of knowing this, but one of my goals in my very brief tenure here is to try and goad banks and credit unions into playing a little nicer with one another.

I am not doing so well.

Mr. RICHARDS. We are quite good friends.

Mr. HECK. And frankly, your testimony might constitute exhibit A.

If I read this correctly, the ABA opposes Congressman Stivers' bill—I think it is his—not because it hurts banks financially?

Mr. RICHARDS. Actually—

Mr. HECK. Let me finish, please.

Not because you think it will hurt the Federal Home Loan Banks, but because you think it could hurt an insurance company that in no way relates to banks. I am having a problem with that. And to be perfectly blunt about it, I hope there is something more at work here other than, "Well, if they are for it, we are against it."

Mr. RICHARDS. Are you finished?

Mr. HECK. I am.

Mr. RICHARDS. Okay. The ABA actually doesn't oppose the bill. They just have concerns about it. And those concerns stem from a few different areas, actually. The major concern is that as a Federal Home Loan Bank member, we are jointly liable for any losses that the System might incur. And these private insurers don't have the same large risk pool that the NCUSIF and the FDIC has. And frankly, they are riskier. They are riskier and pose a risk to the Federal Home Loan Bank System and potentially to the members.

That is our concern.

Mr. HECK. Yet, what your testimony said is that private insurers would be the ones that would be at risk. You didn't indicate in your written testimony that either the FHLBs or their member institutions would be. What you said was the private insurers, and I just don't find that relevant to the bill. But thank you very much.

I yield back the balance of the time I do not have available.

Chairwoman CAPITO. Thank you. Mrs. Beatty?

Mrs. BEATTY. Thank you, Madam Chairwoman, and Ranking Member Meeks for allowing me to also, like Mr. Stivers, sit in on this hearing. I have a special interest in H.R. 3584. And let me say to both of our witnesses, thank you for being here.

Mr. Heck gave me a great segue. Like him, I take great pride in being a bridge-builder. I have a special relationship with you, Ms. Bartolomucci. And I should know that name well. You worked with the governor during my time as the Democratic House Leader in the Ohio House of Representatives. Thank you for your work then, and for being here today.

Also, that shop in Dublin that you talked about is in my district. Folks live and work there.

And to you, Mr. Richards, thank you for nodding a lot of times at her comments. That is a good start.

Yesterday, I was in a meeting with a lot of bankers and financial folks, and got great advice from some of the audience sitting here today, which I am reflecting on. Now, I am here, and I am glad to hear that you are not opposed, but you have concerns. So, my role as one of the co-sponsors is to figure out how we can bridge that.

With that said, let me go to the point that I think you were making, that you are concerned about the private insurers. Let me ask you this: When was the last time a privately insured credit union failed and depositors lost principal?

Mr. RICHARDS. That is actually outside of my expertise, but I would be happy to get back to you at a later date.

Mrs. BEATTY. Okay. Let me also ask you if you are familiar with the Silver State Schools Credit Union.

Mr. RICHARDS. No, ma'am.

Mrs. BEATTY. Well, okay. I will go to your counterpart there. Could you share with us something about that? Are you familiar with it?

Ms. BARTOLOMUCCI. Yes, the Silver State Schools Credit Union, I believe back in 2008, may have been a $1 billion credit union—a teachers' credit union in that community. And with the economic turndown that we had, their mortgage market just really took a turn.

They are privately insured, and therefore, many of the members of that credit union lost their jobs, and lost their homes. They had a very difficult time. And American Share Insurance (ASI) stepped in. They worked with the regulator there. We worked with the regulator in Ohio. And we were able to inject capital into Silver State's Credit Union, which is again—that credit union is a success story, because if ASI had not had the wherewithal or the capital or the strength or the viability to inject the capital into Silver State's, that credit union would not be here today.

Not one credit union member has lost money in Silver State. And so, if you look at them today, they have been profitable for, I believe, 5 quarters. They have turned that around. Members still have access to credit. They have teachers who have helped their families and their kids purchase homes, rewrite loans, in order for them to be able to pay them back. So, that is Silver State's success. And I know that, because I sit on an advisory board where American Share Insurance is very transparent to privately insured credit unions as to the financial wherewithal of Silver State.

Mrs. BEATTY. Thank you for that. And I shared that because that credit union also has been in existence for 60-plus years.

And, Mr. Richards, the importance of this is—and Mr. Green's question helped me, because he was asking, "What is the problem and what is the issue which makes you have concerns?" And thank you for moving from being opposed to being concerned.

So, hopefully, examples like this can help demonstrate or show that—we are talking about 130 credit unions. And if I am correct, we are only asking that they be eligible to apply. We are not asking beyond that a mandate for anything, other than that they would have that access. Is that correct?

Ms. BARTOLOMUCCI. That is correct. And also, those credit unions would have to be able to withstand the rigid requirements of the Federal Home Loan Bank, and, again, fully capitalize any advances that would be made. So, yes, that is correct, Representative Beatty.

Mrs. BEATTY. And who benefits if privately insured credit unions gain access to the FHLB?

Ms. BARTOLOMUCCI. The members. And personally, my 21,000 members would benefit—consumers in the community.

Mrs. BEATTY. And would you say those same individuals would be harmed, or—if I asked who would be harmed?

Ms. BARTOLOMUCCI. Yes.

Mrs. BEATTY. Thank you.

I relinquish the time I don't have.

Chairwoman CAPITO. Thank you.

Ms. Waters?

Ms. WATERS. Thank you very much, Madam Chairwoman, and Ranking Member Meeks.

I sat here because I wanted very much to hear what our witnesses would say today about the proposed legislation. What is interesting about this hearing is that both credit unions and community banks have the support of both sides of the aisle. And I think it is well known that I have been working with Chairman Jeb Hensarling to come up with a comprehensive piece of legislation that would deal with regulations that we feel are harmful or overburdensome to our small and our community banks, regional banks. And Mr. Green has raised a lot of questions about what is a community bank? What is a small bank?

He didn't throw this in, but I also have a question—we have been debating about what is a regional bank. And so, we are—and I still would like to continue to work with the chairman, and not try and piecemeal the bills on community banks so that we can get very specific about regulations, rather than attempting to do it in the way that the draft does.

I have a great respect for the difficulty of this work, but the draft is overreaching. And I do think that we can come together around specificity, and talk about the regulations that we want to modify, change, or delete, et cetera, et cetera, et cetera. And I think we should work toward that end.

For our credit unions, you, too, have the support of both sides of the aisle. First of all, before I say this to you, Mr. Richards, for our credit unions, we appreciate the work that they do in supplying opportunities and credit to some that you have alluded to here today, the firefighters, the teachers, et cetera, et cetera.

The question that must be answered is if a private credit union fails, where does the responsibility lie? As a matter of fact, what I have here—what I find is very interesting—and I will read it to you—and this is coming from, I guess, the NCUA.

They say, "Our concerns stem from language added to the original section which makes it appear that oversight responsibility for non-federally insured credit unions and certain State-regulated private share insurance companies rest with NCUA."

They go on to say, “NCUA has no legal authority, regulatory or supervisory jurisdiction over these non-federally insured credit unions or commercial insurance companies, nor do we seek it. In our view, the language requiring private insurance providers to submit copies of their annual audit reports to NCUA should be removed to avoid any potential consumer confusion and misunderstanding.”

So, I think that we have to take this into consideration. What we should be doing is trying to figure out how do we make this work. You are State-regulated. Every State has its own rules, regulations, et cetera. We are Federal. And federally insured, yes, does have that backstop. And so, that is what we are looking for.

Let’s work on that, rather than trying to just ignore the fact that the insurance companies could fail. And you only have one insurance company that is insuring all of the credit unions, American Share Insurance? Because all of the others have, what, left the market, or what have you?

Let’s work on this and try and get it right, instead of trying to ignore the fact that we have to be concerned about where the responsibility eventually lies in the case of the failure of our private credit unions. We like credit unions. We want them to be successful, as for our community of small banks.

I think that there is a lot that we could do. And let me tell you why we raise questions about balloon payments. As you know, balloon payments have had a terrible reputation in the past. They were used oftentimes in ways that literally caused people to default and have their homes taken away from them. You know that history. It is a history that is replete with those kinds of problems.

I have great respect for small banks that keep these loans in their portfolio. I love that. We could have avoided a lot of—if everybody could have afforded it, if all banks could have afforded it, to do that kind of thing.

So the question we have to ask is this: In the balloon payments, whether they are 3 years, 4 years, 7 years or what have you, and you talk about people on fixed incomes who need to have a special kind of product. People on fixed incomes don’t have an increase in those incomes. They can’t look forward to the fact that they are going to have more money. And when that balloon payment comes, and if at that particular time, based on your risk, you decide that you have to have the highest interest rate, et cetera, they can’t afford it, then what happens? You need to help us define how to deal with balloon payments in ways that will not so negatively impact those who could use the short—the low interest rates that they are given if they have 3, 4, 5, 6, 7 years.

Help us to understand what you do with that person with the fixed income, and based on your risk assessment, now you have to charge a different interest rate. How do you keep them in that home? I know about how often homes turn over, and most people who buy homes don’t anticipate that they are going to turn over in 3, 4, 5, 6 years. Some do if the market is right and you can make a profit or something. Some do, but most don’t.

We need you to work with us so that we can help straighten out these problems so that we can keep you doing what you want to do. Because you have the basic support. It is not as if—for example, right now, Mr. Richards, the CFPB has said they are not going to do anything on balloon payments; keep doing what you are doing for the next 2 years.

And so, let's use that 2 years to work on dealing with regulations in ways that will help you, rather than trying to look at ways by which you can just stop all regulations. Or as Mr. Lynch was saying, bottle it up in such a way that the regulators can't do their jobs.

I would like to work with you and others on the credit union problem to see what we can do to ensure that we have a backstop. Because I think this can all be worked out.

I yield back the balance of my time.

Chairwoman CAPITO. Thank you.

With that, all questioning is over.

I would like to thank both of the witnesses. You were excellent witnesses. And I appreciate your efforts not only on behalf of your institutions, but on behalf of this Congress.

Thank you.

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

The hearing is adjourned.

[Whereupon, at 12:13 p.m., the hearing was adjourned.]

APPENDIX

December 4, 2013

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TESTIMONY

OF

ROSE BARTOLOMUCCI
PRESIDENT AND CHIEF EXECUTIVE OFFICER
TOWPATH CREDIT UNION

ON BEHALF OF THE
CREDIT UNION NATIONAL ASSOCIATION

BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON

EXAMINING REGULATORY RELIEF PROPOSALS FOR COMMUNITY FINANCIAL INSTITUTIONS

DECEMBER 4, 2013

Testimony
of
Rose Bartolomucci
President and Chief Executive Officer
Towpath Credit Union
On behalf of the
Credit Union National Association
Before the
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
United States House of Representatives
Hearing on
Examining Regulatory Relief Proposals for Community Financial Institutions

December 4, 2013

Chairman Capito, Ranking Member Meeks and Members of the Subcommittee:

Thank you for inviting me here to testify at today's hearing. My name is Rose Bartolomucci, and I am President and Chief Executive Officer of Towpath Credit Union, a state-chartered credit union with total assets of $113 million, serving 21,000 members, headquartered in Akron, Ohio. Our field of membership is principally telephone workers and educators in the Greater Akron marketplace. I am testifying today on behalf of the Credit Union National Association (CUNA), the largest credit union advocacy organization in the United States, representing nearly 90% of America's 6,800 state and federally chartered credit unions and their 98 million members. I am also currently a member of the CFPB's Credit Union Advisory Council and would like to state that the views expressed in my testimony today are my own, and those of the

Credit Union National Association, and not the Credit Union Advisory Council, the Consumer Financial Protection Bureau, or the United States.

The credit union system is pleased to testify before the Subcommittee in support of each of the bills under consideration today: H.R. 3584, a bill to permit privately insured credit unions to apply for membership in the Federal Home Loan Bank (FHLB) system; H.R. 2672, the Consumer Financial Protection Bureau (CFPB) Rural Designation Petition and Correction Act; and a new bill to direct federal financial regulators to determine whether new regulations or orders are duplicative or inconsistent with existing Federal regulations.

Authorizing Privately Insured Credit Unions to Become Members of a Federal Home Loan Bank

CUNA supports H.R. 3584, bi-partisan legislation introduced by Representatives Steve Stivers (R-OH) and Joyce Beatty (D-OH), which would allow state-chartered, privately insured credit unions, to apply for membership in the Federal Home Loan Bank System. Importantly, this does not guarantee any institution the right to be a member, simply the ability to apply for membership. This legislation would affect a small group of state-chartered, privately insured credit unions across the Unites States. We are grateful to them both for introducing this bill. We are also grateful to a former Member of the Committee, Andre Carson (D-IN) who was an original co-sponsor of this bill in the last Congress and this Congress as well.

Let me discuss the necessity of this bill for this small group of credit unions. I will also more generally discuss the present status of private insurance for credit unions.

Very simply, credit unions exist to serve the financial needs of their members. The Federal Home Loan Bank System permits certain financial institutions to apply for membership, helping those institutions meet lending demand with respect to home mortgages, farm loans or other loans that satisfy the collateral requirements of the Federal Home Loan Bank System. Some state-chartered credit unions are privately insured and under current law, cannot apply for membership to the Federal Home Loan Bank System. Permitting these few credit unions to apply for membership to the Federal Home Loan Bank System would help them serve the financial needs of their members. Many credit unions keep their loans in portfolio or make loans with unique characteristics that do not always meet the big bank "cookie cutter" models. Federal Home Loan Bank membership is a key option to providing liquidity so we can meet our members' needs.

In 1989, in the wake of the savings and loan crisis, the Federal Home Loan Bank System was opened up for the first time to commercial banks and credit unions. Unfortunately, the bill was drafted in such a way to apply only to an "insured credit union" as defined under the Federal Credit Union Act. If the legislation had used a broader term – such as "state credit union" or "state-chartered credit union" terms that are clearly defined in the 12 USC 1752 of the Federal Credit Union Act, we would not be here today, and this would not be an issue.

This is why, for many years, we have suggested that this was likely an oversight in drafting. Unfortunately, it has meant that this small group of credit unions has been denied the right to even apply for membership in the Federal Home Loan Bank System for over two decades.

The House of Representatives has recognized this as a problem. Twice, in 2004 and 2006, the full House passed legislation to correct this. In fact, the bill before you today is nearly identical to a similar proposal passed by the

House of Representatives on March 8, 2006 as Section 301 of H.R. 3505, the Financial Services Regulatory Relief Act of 2006, by a vote of 415 - 2. In 2008, as part of the Housing and Economic Recovery Act of 2008, Congress made a small change that permits privately-insured, state-chartered credit unions which are designated as CDFIs to apply for membership to the Federal Home Loan Banks; however, of the 132 privately insured credit unions, only two hold CDFI status.

The Federal Home Loan Bank System was created in the midst of the Great Depression, notably before the existence of federal deposit insurance. Its purpose was to help small savings institutions in rural areas access credit to facilitate home lending. We feel that privately insured credit unions are exactly who this System was designed to serve. Insurance companies, which are not federally insured, were original members of the System and they remain so today. In fact, 119 insurance companies presently borrow from the Federal Home Loan Bank System and report borrowings of nearly *twice* that of the 427 federally insured credit unions that also currently have advances outstanding, according to the Combined Financial Report of the Federal Home Loan Bank System for the Quarter ending on September 30, 2013.

It has never seemed fair to our small institutions that some of the largest banks in the world, or insurance companies (which are not federally insured), or a foreign bank's U.S. subsidiary can borrow billions of dollars from the Federal Home Loan Bank System, but teachers in Ohio and Texas, firefighters in California, postal and county workers in Illinois and farmers in Indiana cannot. We think passing H.R. 3584 would be a just result to remedy this inequity.

Issues related to private share insurance

Let me also take this opportunity to discuss private insurance for credit unions, and address some of the issues that might be raised by those unfamiliar with private insurance.

Private deposit insurance has been available to credit unions since 1962, well before the establishment of a federal deposit insurance fund for credit unions. Credit unions did not have federal insurance until the National Credit Union Share Insurance Fund was created in 1970 – nearly 37 years after the creation of the FDIC. The Federal Credit Union Act in 12 USC 1781 states, in part, that the National Credit Union Administration (NCUA) "shall insure the member accounts of all Federal credit unions and it *may* insure the member accounts of (1) credit unions organized and operated according to the laws of any State." Thus, for state-chartered credit unions, federal insurance was optional, and many did not have any form of deposit insurance until into the early 1980s.

Presently, there are 132 privately insured credit unions that operate in nine states, representing approximately 14.5% of the total state-chartered credit unions in those respective states. The states are: Ohio, Illinois, Indiana, Maryland, Alabama, Idaho, Nevada, California and Texas. Collectively, these institutions hold $11.9 billion in insurable deposits and approximately $13.3 billion in total assets, averaging just over $100 million each. Combined by asset size, these institutions barely satisfy the definition of just *one small bank.* Congress has often set a $10 billion threshold as defining a relatively small institution. Only a few of the privately insured credit unions are over $500 million in assets, and only one is over $1 billion in assets.

The company that insures these credit unions, American Mutual Share Insurance Corporation (ASI), is based in Dublin, Ohio. It has been in operation since 1974, beginning just a few years after the start of federal insurance for credit unions. ASI is a credit union-owned share guaranty corporation, duly licensed by the Ohio Department of Insurance and dual-regulated in Ohio by the Ohio Department of Insurance and the Ohio Department of Financial Institutions. ASI only insures deposits at credit unions.

In nearly 40 years of operation, no depositor has ever lost money in an ASI-insured credit union. The insurance fund has endured all of the economic swings in the last four decades, including the savings and loan crisis, the bank and real estate crisis in the early 1990s and this latest and worst of economic times that started in 2008. To meet the needs of depositors, the company reports a strong capital base and an equity ratio of 1.60%, determined by independent actuaries to be sufficient to cover claims under various economic conditions. ASI has experience addressing its problems and resolving challenges to the benefit of credit union members and the financial services industry. During this most recent financial crisis, ASI came to the aid of one of its largest insured credit unions at the epicenter of the recession, Las Vegas, Nevada. With ASI's help, the credit union did not have to close and today 70,000 members (mostly teachers and others) in Nevada still enjoy quality service from a viable institution.

Under state and federal law, the company is subject to an annual audit by an independent "Big Four" certified public accounting firm, and under Ohio law, any qualifications to the auditors' opinion must be remedied in order to continue operating. For the record, ASI has never received a qualification to its audited financial statements. Furthermore, under Ohio law, ASI must have the adequacy of its guaranty loss reserves annually reviewed and attested to by an independent actuary, and every three years, it must have an actuary render an opinion as to the sufficiency of ASI's total capital and reserves under various economic scenarios. As of the close of last year, an internationally recognized actuarial firm considered both reserves and capital to be sufficient by industry standards. Finally, state regulators from each of the nine states where ASI is authorized to offer their insurance, participate in an annual joint examination of ASI.

Understandably, a number of questions arise when considering privately insured financial institutions. I would like to address these issues in the context of this legislation.

Activities of State-Chartered Credit Unions with Private Insurance

Can these privately insured credit unions engage in riskier activities than federally insured institutions? No. State-chartered, privately insured credit unions are licensed and regulated in the exact same manner as state-chartered, federally insured credit unions. In each state where there are privately insured institutions, there are also federally insured institutions. State regulators apply the same rules and standards to all state-chartered credit unions under their supervision, thus, privately insured institutions are not engaged in any activities that are not normally conducted by federally insured, state-chartered institutions. Further, ASI monitors its larger insured credit unions monthly and others quarterly, and conducts on-site examinations at credit unions representing nearly 90% of total insured deposits each year. These on-site examinations are routinely done in concert with the state credit union authorities.

Impact on the Federal Home Loan Bank System

Is there a risk to the Federal Home Loan Bank System from this legislation? No. All advances from the Federal Home Loan Bank System must be fully collateralized and subject to their strict uniformly applied standards. Also, the legislation, H.R. 3584, makes it clear that the FHLB will have a superior lien over any assets it holds as collateral, irrespective of how the credit union's deposits are insured. In addition, under any scenario, the number of privately insured institutions that would likely join the FHLB, and dollar amount of advances associated with them, would be a small fraction of the combined outstanding advances of the FHLB System. There is no risk of loss to any

Federal Home Loan Bank as a result of a credit union's form of deposit insurance.

Currently, the Federal Home Loan Bank System has approximately $465 billion in outstanding advances. When all the assets of privately insured credit unions are combined, it approximates nearly $13.3 billion. Even under the most extraordinary circumstance, assuming 20% of the assets of *all* these credit unions were pledged as collateral for advances, the new advances would amount to approximately one-half of one percent of all the current advances outstanding of the combined branches of the Federal Home Loan Banks. As you can see, this change would result in nothing more than a very minor addition to the Federal Home Loan Banks' membership base and advances outstanding.

Impact on the NCUSIF

Will this change cause a significant number of credit unions to switch from federal to private insurance? No. First, and most importantly, ***federally insured credit unions can already join the FHLB.*** Therefore, there is no benefit for a federally insured credit union to change insurance just because of this change in the law. Second, the NCUA Board has final approval authority over any federally insured credit union switching from federal to private insurance. Finally, no federally insured credit union can convert to private share insurance without also satisfying extremely rigid regulatory requirements of the NCUA which includes the voting of the credit union's entire membership under federally scripted balloting and notice provisions. Historically, very few credit unions switch from private to federal insurance or vice versa in any one year. A mass exodus is not likely or practicable. As evidence, over the past ten years, a total of 11 institutions have switched from federal to private deposit insurance (other than through merger), and 10 have switched from private to federal deposit insurance (other than through merger), for a net annual average change of zero. Further, ASI's governing statute limits any inordinate growth to less than 25 average-sized credit unions over any short period of time, so as not to dilute its capital and reserves. This legislation will clearly not impact the balance of credit unions in either insurance fund.

Consumer Protection

Are consumers protected when an institution is privately insured? Not commonly known to most observers is that Section 43 of the Federal Deposit Insurance Act, enacted in 1991, has extensive statutory requirements governing disclosures to consumers in privately insured credit unions. As a result of Dodd-Frank, authority over this Act was transferred from the FTC to the CFPB, and CFPB regulations are currently in place to govern consumer disclosures of privately insured credit unions. The statute requires that the institution "include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or share certificate a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money." Further, it provides that in all advertising, websites, branches, teller windows, etc., that there are similar conspicuous disclosures.

I hope that I have explained the need for H.R. 3584 for institutions like mine and imparted to the Subcommittee more information about the niche of privately insured credit unions. Credit unions are different. We are member-owned cooperatives, with volunteer Boards of Directors. While some want to raise unwarranted fears, we seek this authority for no other reason than to help our members meet their financial needs and improve the prospects of broader home ownership.

CFPB Rural Designation Petition and Correction Act

CUNA supports H.R. 2672, introduced by Representative Andy Barr (R-KY), the CFPB Rural Designation Petition and Correction Act. This legislation would direct the CFPB to establish an application process determining whether a county should be designated as a rural area if the CFPB has not designated it as one.

Designation of "rural" by the CFPB has many implications for credit unions, particularly with respect to the type of products credit unions may offer their members in these areas. For instance, the Escrow Requirements under the Truth in Lending Act Rule requires certain lenders to create an escrow account for at least five years for higher-priced mortgage loans. If those loans are made by small lenders that operate predominately in rural or underserved counties, they are exempt from this requirement. Another example includes the Ability to Repay and Qualified Mortgage (QM) Standards Under the Truth in Lending Act rule by which mortgage loans with balloon payments do not meet the QM standard. Like the Escrow Rule, small lenders that operate predominately in rural areas are eligible to originate balloon-payment QMs. The CFPB has defined "rural" by using the U.S. Department of Agriculture Economic Research Services' urban influence codes.

However, the CFPB is reexamining the definition of "rural" over the next two years. The concern CUNA has with the definition in the current rule is that many credit unions make loans to those in rural communities, but the credit union itself may not be based in those communities. If the definition of "rural" does not change, these institutions will be limited in the types of products they can offer their members in these areas.

That is why Rep. Barr's legislation is welcomed at this time. This bill would allow a person who lives in or does business in a state, with respect to a county in such state that has not been designated by the CFPB as a rural area for purposes of a Federal consumer financial law, to apply for such county designation. To make a determination of whether a county should be designated as rural, the CFPB must take into account in its definition of "rural" criteria used by: the Bureau of the Census for classifying geographical areas as rural or urban; the Office of Management and Budget to designate counties as metropolitan, micropolitan or neither; the Secretary of the Agriculture to determining property eligibility for rural development programs; the Department of the Agriculture rural-urban commuting codes; a written opinion provided by the State's banking regulator; and, population density.

CUNA supports this legislation, and we encourage Congress to enact it.

Directing Federal Financial Regulators to Address Duplicative or Inconsistent Rules

As CUNA has testified in the past, credit unions face a crisis of creeping complexity with respect to regulatory burden. It is not just one new law or revised regulation that challenges credit unions, but the cumulative effect of all regulatory changes. Credit unions are small community based financial institutions. Nearly 78% of all credit unions are under $100 million in assets and nearly 50% of all credit unions are under $20 million in assets. Credit unions of these sizes typically employ a small staff. For instance, my credit union is just over $100 million and employs 17 staff members. However, with the onslaught of rules and regulations from various regulators as the result of Dodd-Frank and other enacted legislation, small credit unions are expected to comply as quickly and efficiently as large financial institutions with hoards of compliance officers. While the elimination of one duplicative rule or regulation may not seem like much, to a compliance officer in a credit union, it is. Without one more rule to comply with that employee can now spend time with a credit union member, helping to serve their financial needs.

The CFPB sought comments on streamlining inherited regulations on November 20, 2011.[1] CUNA submitted comments to the Bureau.[2] Our letter included suggestions that would establish ongoing regulatory review mechanisms and establish a reasonable review and implementation cycle for all consumer protection rule changes (i.e. which would have prevented the multiple amendments of rules in a short period of time with regard to the CARD Act and mortgage regulations). Small changes such as these make a significant difference in our member-owned cooperatives. However, two years later, the CFPB has yet to act on the comments they sought.

The legislation that Chairman Capito is working on would help to whittle away at unnecessarily burdensome, outdated and/or duplicative rules by directing the federal financial regulators when promulgating new regulations to "assess other related Federal regulations to determine the interaction between the proposed regulation or order and other related Federal regulations." The considerations the regulator would be required to make under this legislation include assessing whether the proposed regulation or order is in conflict, inconsistent or duplicative with other Federal regulations and orders or if it is simply outdated. The legislation also directs the regulators to take all available measures under current law to resolve any duplicative or inconsistent existing regulation or order with any proposed regulation or order before issuing the final regulation or order.

[1] https://www.federalregister.gov/articles/2011/12/05/2011-31030/streamlining-inherited-regulations
[2] http://legacy.cuna.org/download/cl_030512.pdf

CUNA supports this legislation. If enacted, we believe that it could help ensure that future rulemaking is not unnecessarily burdensome. We appreciate the sponsors' introducing this bill and encourage Congress to enact the legislation.

Conclusion

Madam Chairman, for those operating community based financial institutions, the crisis of creeping complexity with respect to regulatory burden is very real. The bills that the subcommittee is hearing today are commonsense proposals that individually may seem like small steps, but taken collectively will contribute to expanded access to capital for homeowners and small businesses and reduced regulatory burden for credit unions, banks and other financial institutions.

Frankly, there is a lot more work to be done to address the unnecessary, outdated and duplicative regulatory burden facing community based financial institutions. We applaud the Subcommittee for its continued efforts to address regulatory burden, and we look forward to working with you on additional measures in this regard.

On behalf of America's credit unions and their 98 million members, thank you very much for allowing me to testify at today's hearing. I am happy to answer any questions the Members of the Subcommittee may have.

December 4, 2013

Testimony of

Thomas N. Richards

On behalf of the

American Bankers Association

before the

Subcommittee on Financial Institutions and Consumer Credit
of the
Committee on Financial Services

United States House of Representatives

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December 4, 2013

Chairman Capito, Ranking Member Meeks, and members of the Subcommittee, I am Thomas Richards, Assistant Vice President of Owingsville Banking Co., headquartered in Owingsville, KY. I appreciate the opportunity to represent the American Bankers Association at this hearing. ABA represents banks of all sizes and charters and is the voice for the nation's $14 trillion banking industry and its two million employees.

My bank is a small $63 million community bank that has been serving the county of Bath for 120 years. Bath County is a rural area on the edge of the Bluegrass Region and eastern Kentucky. My bank primarily extends credit to consumers and small farmers, with very little commercial activity taking place. We serve a vital role in our community making loans for houses, tractors, and even tailpipes for people trying to get back and forth to work. At my bank, we have no minimum loan request because we feel that it is our duty to take care of our customers no matter how small their need may be.

I am pleased to comment on several bills: the Clarity in Regulations Discussion Draft, introduced by Chairman Capito (R-WV); H.R. 2672, the CFPB Rural Designation Petition and Correction Act, introduced by Rep. Barr (R-KY); and H.R. 3584, introduced by Rep. Stivers (R-OH), which would authorize privately insured credit unions to become members of a Federal Home Loan Bank. I will address each in turn.

Eliminate Duplicative and Conflicting Regulations

ABA supports the Clarity in Regulations Discussion Draft, introduced by Chairman Capito, which would require a review and reconciliation of existing regulations that may be in conflict with or duplicative of new rules being promulgated by the banking agencies. As this subcommittee knows from ABA's previous testimonies, the mountain of banking regulations continues to grow. For my bank, with only 26 employees, managing this large and costly compliance burden has real consequences for our ability to meet the credit and financial service needs of our customers. The Dodd-Frank Act alone has created over 6,800 pages of final regulations and guidance papers, and there are still many more regulations yet to be finalized. This bill would help to eliminate conflicts among different regulations, thereby eliminating additional compliance burdens and considerable aggravation as banks struggle to reconcile differences that exist. In essence, this bill would help me and my colleagues get back to doing the business of banking.

Inevitably, with such a large and complex bill like Dodd-Frank, there will be many elements that result in implementation or policy conflicts. The mortgage regulations are the most obvious example. For instance, Dodd-Frank created a potential conflict for the Qualified Mortgage (QM) rule, the Qualified Residential Mortgage (QRM) rule, and banks' abilities to serve all communities. Fortunately, the regulators have been working to make the approaches consistent, but there is no affirmative responsibility for them to do so which has caused considerable anxiety and uncertainty within the industry. Hopefully the regulators will finalize the QRM regulations in a manner consistent with QM, as they outlined in their recent re-proposal of the QRM rules.

There is also a great amount of overlap that arises under the new Dodd-Frank provisions and existing mortgage rules that can lead to duplication, complication and potential conflict—all of which increases the cost of credit to borrowers and the costs of compliance for lenders. For example, new Dodd-Frank regulations address possible abuses by affiliated entities in various ways—the fees of affiliates must be counted towards triggers and de-facto price ceilings, and affiliate fees get less favorable tolerance treatment in terms of fee disclosures. These provisions are added to existing protections that require extensive disclosures of the participation of affiliates in the transaction, and criminal penalties against improper referrals. These different provisions are spread across RESPA, TILA and HOEPA, and lead to duplication and heavy penalizing for the use of affiliated services—services that may often be beneficial for consumers. In addition, TILA's APR tolerance rule and RESPA's fee disclosure variance limits aim at mostly the same fees and serve the same objective. There is no reason to have varying fee limitations under statutes that cover the same exact fees.

We suggest the bill should also cover not only instances where a new regulation conflicts with or is duplicative or inconsistent with ***existing*** regulations or orders, but cover instances where a new regulation is in conflict with, duplicative or inconsistent with ***new*** guidance or regulations. Moreover, the bill should enable regulators to address instances where a targeted rule may have created an unintended compliance obligation for banks not engaged in the activity in question.

For example, consider the compliance obligations of small banks under the Volcker Rule. As proposed, the rule would require every bank to create a compliance program even if they do not conduct any activities identified as being covered under the Volcker Rule. There is no systemic issue here and this is one area where there should be no monitoring obligation or requirement for community banks, in effect, to prove their innocence. Rather, as part of the supervisory process examiners would be able to assess whether there are activities that might fall under the Volcker Rule.

Another example of an unintended compliance obligation which may hinder lending in ways not contemplated under Dodd-Frank is the ability to repay (ATR) requirements. These ATR requirements were intended to prevent lenders from originating loans without regard to a borrower's ability to repay the loan, in order to generate origination fees. Such lending was often undertaken by brokers and others who then passed the loans through the securitization chain with little or no consequence to the originator if the loan failed. Portfolio lenders, by virtue of their business model, did not engage in such activity. It was—and remains—essential to their success that the loans they originate are able to be repaid. Nevertheless, the ATR rule currently applies to portfolio lenders as well as those who sell loans, and imposes standards that many good loans simply cannot meet. Portfolio lenders, willing to make a loan to a borrower who they view as a reasonable credit risk and willing to hold those loans on their own books, should not be required to meet the Dodd-Frank requirements.

A portfolio lender's own self-interest in maintaining a safe and sound portfolio, along with safety and soundness regulation and supervision, provide adequate regulation in this area. My bank is a portfolio lender, and I have never understood why it is necessary for the ability to repay requirements to be imposed upon us. We retain all of the credit risk, so the last thing my bank wants is for one of our borrowers to default. In my opinion, self-preservation and the time-tested prudential safeguards required by the regulators are sufficient to motivate portfolio lenders to make safe and sound loans, and an additional layer of regulatory burden is completely unnecessary.

Furthermore, the imposition of the Dodd-Frank requirements on portfolio lenders will make it impossible to serve some otherwise creditworthy customers and will significantly harm certain borrowers and populations which would otherwise be well served by portfolio lenders. Regulators should have the authority to exempt portfolio lenders from this mis-applied rule, but they have no flexibility to do so under current law. The best approach, of course, is to enact legislation that exempts portfolio lenders from the ATR entirely. Enacting new laws to resolve every potential conflict or unintended conflict is not practical and is why this bill is important to help resolve, in a timely and straightforward manner, overlaps and conflicts that arise.

The issue of crushing regulation is a deeply personal one for me. Community banking is not only my livelihood, but also a large part of my family history over the past 120 years. It would be a travesty if the burden of unnecessary and duplicative regulation was to make my bank, and those like it, extinct. It is my hope that the Clarity in Regulations Discussion Draft will help stem the tide of overly burdensome regulation, and allow community banks across the country to continue to serve the needs of their customers.

Rural Designation for CFPB

ABA supports H.R. 2672, the CFPB Rural Designation Petition and Correction Act, introduced by Rep. Barr (R-KY). Many of the reasons cited above—to eliminate unintended consequences in the implementation of new regulations—are applicable to this bill as well.

The Dodd-Frank Act provided the Consumer Financial Protection Bureau (CFPB) with discretionary authority to exempt certain loans from the qualified mortgage rule. The CFPB has exercised this authority to accommodate community banks that make short-term balloon loans as a means of hedging against interest rate risk. The exemption applies only if, during the preceding calendar year, the creditor extended more than 50 percent of its total covered transactions that provide for balloon payments in one or more counties designated by the Bureau as "rural" or "underserved." Thus, the definition of rural and underserved is critical and can dramatically affect banks like mine and the communities they serve.

I would note that the CFPB has struggled with an appropriate definition. I understand there are dozens and dozens of different definitions of "rural" used for various federal government purposes. The CFPB's original definition of rural—which the Bureau has appropriately put on hold—was far too narrow and was inconsistently applied which would have had a dramatic impact on small lenders and communities.

In fact, under CFPB's original definition, Bath County—which covers 284 square miles, has 12,000 residents, 4,400 households, and a median income of $30,000—does <u>not</u> qualify, while Bourbon, Boyle, and Rowan Counties, with much larger and more urban populations <u>do</u> qualify. Charles Vice, the Commissioner of the Kentucky Department of Financial institutions, when asked at a prior Financial Services Committee hearing if in his opinion Bath County was non-rural, responded by saying that Bath County is one of the most rural places in the United States. This is a perfect example to illustrate the potential negative and unintended consequences that arbitrary definitions can have. My bank is not alone in being erroneously classified as operating in a non-rural county, and there are surely many more bankers just like myself who are dumbfounded as to how such a mistake could occur and how there could be no mechanism to appeal the decision.

The CFPB does acknowledge the narrowness of its original definition of rural and, importantly, the willingness of small portfolio lenders to serve borrowers with specialized needs, and the necessity for protection in order for these lenders to continue to make loans meeting these needs. In the short term, CFPB has delayed application of the rural and underserved requirements for two years to allow small lenders to continue to make these loans, while the Bureau refines its definitions. This approach has advantages, but it is too narrow and would exclude lenders that are meeting the mortgage needs of their small communities in a safe and sound manner. Real estate loans make up the vast majority of my bank's portfolio; in fact, over 80 percent of our loans are for real estate. Again, my bank is not alone. This will impact many small banks and will limit their ability to serve their community.

To reiterate, the key point here is that unnecessary restrictions will lead to some qualified borrowers not receiving the credit that they deserve. Not every borrower can qualify for a secondary market loan, whether it is due to an insufficient credit score, an irregular property such as a mobile home or a large tract of land, or a lack of comparable properties that satisfy appraisal standards. In such cases, balloon loans serve as a viable alternative credit product, and under the rules proposed by the CFPB many banks will no longer be able to offer this option, thus restricting the flow of credit.

I can tell you that from a small community's standpoint, this can be devastating to the livelihood of that area. Thus, an appropriate exemption is critical to our ability to meet our community's needs. The CFPB has wide discretion in defining "rural and underserved" and it should ensure that any future definition not exclude banks from offering deserving customers access to credit. H.R. 2672 would help to assure that whatever definition of rural is ultimately used by the CFPB, there would be an avenue to appeal to the Bureau in those inevitable cases where a county may have been inappropriately excluded.

Membership Access by Privately-Insured Credit Unions to a Federal Home Loan Bank

The ABA has concerns about privately-insured credit unions being allowed to join a Federal Home Loan Bank, as provided for in H.R. 3584, introduced by Rep. Stivers (R-OH). We acknowledge that the FHLBs play an important role providing advances to portfolio mortgage lenders. The issue of concern is the financial viability of the private insurer to a failure of a non-federally-insured credit union that has a significant level of secured advances from the Federal Home Loan Bank (FHLB).

First, advances provided by the FHLBs are secured and have priority in any financial institution failure. The FHLB claims can be and have been accommodated within a pool numbering thousands of participants. But the FHLB claim preference could be a significant blow in the context of a small pool. This concern is obvious from the number of privately insured credit unions. The number of privately insured credit unions has dropped by one-third over the last decade, from 212 institutions to 137. This is in contrast to the FDIC which insures 6,891 banks and the NCUSIF which insures 6,681 credit unions.

Given the limited resources of the private insurer, any failure would have a significantly larger impact (relative to that faced by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF)). The small pool limits the ability of the private insurer to spread the risk in contrast to both the FDIC and NCUSIF. But with higher losses from secured FHLB borrowings, the cost would be far more difficult to absorb given the smaller pool of privately-insured credit unions.

The FDIC and NCUSIF also have the full faith and credit backing of the Federal government. Moreover, only nine states actively authorize state-chartered credit unions to have private primary share insurance. Five states (California, Illinois, Indiana, Ohio and Nevada) account for almost 95 percent of the deposits. As the last recession showed, banking problems are driven by local and regional economic downturns and, therefore, this concentration means that the private insurer faces an even greater solvency risk than the FDIC or NCUSIF which have large and diversified memberships.

Furthermore, while we appreciate the bill's acknowledgement that the financial health of the privately-insured credit union is an important consideration in allowing FHLB membership, it is clear that such a designation may not hold over time. Therefore, the provision provides little in terms of protecting the private insurer or in terms of the potential equity benefit to the FHLBs.

Conclusion

I appreciate the opportunity to comment on these important bills. The banking industry is prepared to work with this subcommittee to identify changes that truly will help banks meet the daily financial and credit needs of our customers.

ICBA
INDEPENDENT COMMUNITY
BANKERS of AMERICA®

December 4, 2013

Regulatory Relief Proposals for Community Financial Institutions

On behalf of the Independent Community Bankers of America (ICBA) and the nearly 7,000 community banks we represent, thank you for convening this hearing on "Examining Regulatory Relief Proposals for Community Financial Institutions." We are pleased to have this opportunity to set forth our views on the bills under consideration in this statement for the record.

H.R. 2672, the CFPB Rural Designation Petition and Correction Act

ICBA strongly supports H.R. 2672, introduced by Rep. Andy Barr, which would make the CFPB's "ability-to-repay" rule more workable for community bank customers. Under that rule, a balloon loan may not be designated a "qualified mortgage," which is deemed compliant with the rule and thereby shielded from heightened liability, unless it is made by a lender that operates primarily in "rural" counties, under a very restrictive definition of "rural." (The CFPB has suspended application of the rural lender limitation for two years.)

Community banks rely on balloon loans to serve borrowers whose loans are ineligible for sale into the secondary market because of stringent appraisal requirements, irregular or mixed-use collateral properties, or non-traditional borrower income. The only way for community bankers to extend credit to such customers is to structure the loan as a balloon loan, which is repriced and renewed at maturity, typically 3 to 7 years, and hold it in portfolio. The balloon feature shields the lender from unacceptable interest rate risk. This is why the rural definition, a pre-condition of QM status, is so important to community bank customers. Without QM protections, such loans will not be made and borrowers will lose access to credit.

H.R. 2672 would create a process in which individuals could petition the CFPB in order to have the rural status of a county reassessed. This process would help to more accurately identify rural counties and to ensure individuals in those communities have their mortgage needs met.

A bill to require certain financial regulators to determine whether new regulations or orders are duplicative or inconsistent with existing Federal regulations

ICBA strongly supports this discussion draft, which was circulated by Chairman Capito and Ranking Member Meeks. This discussion draft would require financial regulators, before issuing any new rule, to consider whether it is in conflict, is inconsistent with, or is duplicative of an existing rule. They would also have to consider whether any existing rule is outdated. This discussion draft would help alleviate the mounting regulatory burden which is making it increasingly difficult for community banks to serve their customers and communities.

H.R. 3584, the Capital Access for Small Community Financial Institutions Act of 2013

ICBA has concerns about H.R. 3584 because it would allow credit unions that are not federally insured to become members of Federal Home Loan Banks (FHLBs). The vast majority of federally insured community banks are FHLB members and depend on them as a strong, stable, reliable source of funding.

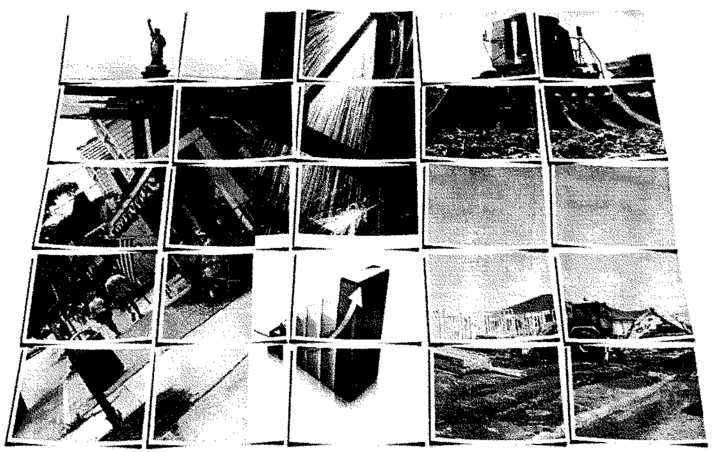
The current law requirement that banks and credit unions be federally insured as a condition of FHLB membership is not arbitrary. Because the FHLBs are cooperatives, the failure of any one member with outstanding advances will harm the remaining members. The federal deposit insurance requirement is intended to exclude from membership high risk institutions, be they banks, thrifts, or credit unions. Relaxing this requirement for a single class of financial institutions is unwarranted and would put existing FHLB members at risk unnecessarily.

Thank you again for the opportunity to submit this statement for the record. ICBA is very pleased that the first two bills noted above are fully consistent with the Plan for Prosperity: A Regulatory Relief Agenda to Empower Local Communities, which is attached to this statement.

Attachment: ICBA Plan for Prosperity

ICBA

Plan for Prosperity



A Regulatory Relief Agenda to Empower Local Communities

2013

Plan for Prosperity: A Regulatory Relief Agenda to Empower Local Communities

America's 7,000 community banks are vital to the prosperity of the U.S. economy, particularly in micropolitan and rural communities. Providing 60 percent of all small business loans under $1 million, as well as customized mortgage and consumer loans suited to the unique characteristics of their local communities, community banks are playing a vital role in ensuring the economic recovery is robust and broad based, reaching communities of all sizes and in every region of the country.

In order to reach their full potential as catalysts for entrepreneurship, economic growth, and job creation, community banks must be able to attract capital in a highly competitive environment. Regulation calibrated to the size, lower-risk profile, and traditional business model of community banks is critical to this objective. ICBA's Plan for Prosperity provides targeted regulatory relief that will allow community banks to thrive by doing what they do best – serving and growing their communities. By rebalancing unsustainable regulatory burden, the Plan will ensure that scarce capital and labor resources are used productively, not sunk into unnecessary compliance costs, allowing community banks to better focus on lending and investing that will directly improve the quality of life in our communities. Each provision of the Plan was selected with input from community bankers nationwide and crafted to preserve and strengthen consumer protections and safety and soundness.

The Plan is not a bill; it is a platform and set of legislative priorities positioned for advancement in Congress. The provisions could be introduced in Congress individually, collectively or configured in whatever fashion suits interested members of Congress. The Plan is a flexible, living document that can be adapted to a rapidly changing regulatory and legislative environment to maximize its influence and likelihood of enactment. Provisions of the Plan include:

Support for the Housing Recovery: Mortgage Reform For Community Banks. Provide community banks relief from certain mortgage regulations, especially for loans held in portfolio. When a community bank holds a loan in portfolio, it has a direct stake in the loan's performance and every incentive to ensure it is affordable and responsibly serviced. Relief would include: Providing "qualified mortgage" safe harbor status for loans originated and held in portfolio for the life of the loan by banks with less than $10 billion in assets, including balloon mortgages; exempting banks with assets below $10 billion from escrow requirements for loans held in portfolio; increasing the "small servicer" exemption threshold to 20,000 loans (up from 5,000); and reinstating the FIRREA exemption for independent appraisals for portfolio loans of $250,000 or less made by banks with assets below $10 billion.

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Strengthening Accountability in Bank Exams: A Workable Appeals Process. The trend toward oppressive, micromanaged regulatory exams is a concern to community bankers nationwide. An independent body would be created to receive, investigate, and resolve material complaints from banks in a timely and confidential manner. The goal is to hold examiners accountable and to prevent retribution against banks that file complaints.

Redundant Privacy Notices: Eliminate Annual Requirement. Eliminate the requirement that financial institutions mail annual privacy notices even when no change in policy has occurred. Financial institutions would still be required to notify their customers when they change their privacy policies, but when no change in policy has occurred, the annual notice provides no useful information to customers and is a needless expense.

Serving Local Governments: Community Bank Exemption from Municipal Advisor Registration. Exempt community bank employees from having to register as municipal advisors with the SEC and the Municipal Securities Rulemaking Board. Community banks provide traditional banking services to small municipal governments such as demand deposits, certificates of deposit, cash management services, loans and letters of credit. These activities are closely supervised by state and federal bank regulators. Municipal advisor registration and examination would pose a significant expense and regulatory burden for community banks without enhancing financial protections for municipal governments.

Creating a Voice for Community Banks: Treasury Assistant Secretary for Community Banks. Economic and banking policies have too often been made without the benefit of community bank input. An approach that takes into account the diversity and breadth of the financial services sector would significantly improve policy making. Creating an Assistant Secretary for Community Banks within the U.S. Treasury Department would ensure that the 7,000 + community banks across the country, including minority banks that lend in underserved markets, are given appropriate and balanced consideration in the policy making process.

Balanced Consumer Regulation: More Inclusive and Accountable CFPB Governance. Change the governance structure of the CFBP to a five-member commission rather than a single Director. Commissioners would be confirmed by the Senate to staggered five-year terms with no more than three commissioners affiliated with any one political party. This change will strengthen accountability and bring a diversity of views and professional backgrounds to decision-making at the CFPB. In addition, FSOC's review of CFPB rules should be strengthened by changing the vote required to veto a rule from an unreasonably high two-thirds vote to a simple majority, excluding the CFPB Director.

Relief from Accounting and Auditing Expenses: Publicly Traded Community Banks and Thrifts. Increase from $75 million in market capitalization to $350 million the exemption from internal control attestation requirements. Because community bank internal control systems are monitored continually by bank examiners, they should not have to sustain the unnecessary annual expense of paying an outside audit firm for attestation work. This provision will substantially lower the regulatory burden and expense for small, publicly traded community banks without creating more risk for investors. Separately, due to an inadvertent oversight in the recently-passed JOBS Act, thrift holding companies cannot take advantage of the increased shareholder threshold below which a bank or bank holding company may deregister with the SEC. Congress should correct this oversight by allowing thrift holding companies to use the new 1200 shareholder deregistration threshold.

Ensuring the Viability of Mutual Banks: New Charter Option and Relief from Dividend Restrictions. The OCC should be allowed to charter mutual national banks to provide flexibility for institutions to choose the charter that best suits their needs and the communities they serve. In addition, certain mutual holding companies – those that have public shareholders—should be allowed to pay dividends to their public shareholders without having to comply with numerous "dividend waiver" restrictions as required under a recent Federal Reserve rule. The Federal Reserve rule makes it difficult for mutual holding companies to attract investors to support their capital levels. Easier payment of dividends will ensure the viability of the mutual holding company form of organization.

Rigorous and Quantitative Justification of New Rules: Cost-Benefit Analysis. Provide that financial regulatory agencies cannot issue notices of proposed rulemakings unless they first determine that quantified costs are less than quantified benefits. The analysis must take into account the impact on the smallest banks which are disproportionately burdened by regulation because they lack the scale and the resources to absorb the associated compliance costs.
In addition, the agencies would be required to identify and assess available alternatives including modifications to existing regulations. They would also be required to ensure that proposed regulations are consistent with existing regulations, written in plain English, and easy to interpret.

Additional Capital for Small Bank Holding Companies: Modernizing the Federal Reserve's Policy Statement. Require the Federal Reserve to revise the Small Bank Holding Company Policy Statement – a set of capital guidelines that have the force of law. The Policy Statement, makes it easier for small bank holding companies to raise additional capital by issuing debt, would be revised to apply to both bank and thrift holding companies and to increase the qualifying asset threshold from $500 million to $5 billion. Qualifying bank and thrift holding companies must not have significant outstanding debt or be engaged in nonbanking activities that involve significant leverage. This will help ease capital requirements for small bank and thrift holding companies.

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Cutting the Red Tape in Small Business Lending: Eliminate Data Collection. Exclude banks with assets below $10 billion from new small business data collection requirements. This provision, which requires the reporting of information regarding every small business loan application, falls disproportionately upon community banks that lack scale and compliance resources.

Facilitating Capital Formation: Modernize Subchapter S Constraints and Extend Loss Carryback. Subchapter S of the tax code should be updated to facilitate capital formation for community banks, particularly in light of higher capital requirements under the proposed Basel III capital standards. The limit on Subchapter S shareholders should be increased from 100 to 200; Subchapter S corporations should be allowed to issue preferred shares; and Subchapter S shares, both common and preferred, should be permitted to be held in individual retirement accounts (IRAs). These changes would better allow the nation's 2300 Subchapter S banks to raise capital and increase the flow of credit. In addition, banks with $15 billion or less in assets should be allowed to use a five-year net operating loss (NOL) carryback through 2014. This extension of the five-year NOL carryback is countercyclical and will support community bank capital and lending during economic downturns.

The Independent Community Bankers of America®, the nation's voice for nearly 7,000 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services. For more information, visit www.icba.org.

December 3, 2013

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member

Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hensarling and Ranking Member Waters,

As the CEO of MCT Credit Union in Port Neches, Texas, I wanted to express my strong support for H.R. 3485, a bill to allow privately insured credit unions to join the Home Loan Bank System. We are very pleased to see that your Committee is holding a hearing on this issue and we would encourage your Committee to act on it in the near future.

Our credit union was founded in 1953 to serve school teachers in Port Neches and Nederland, Texas. Today, we are proud of our work serving approximately 20,000 members in this area of east Texas. We believe this legislation could be very helpful to us in meeting the credit needs of our members. We are exercising our right under the Federal Credit Union Act, as a state chartered credit union, to have insurance other than from the NCUSIF. We are presently insured by American Share Insurance.

The Federal Home Loan Bank System is composed of 12 U.S. government-sponsored banks that provide stable, on-demand, low-cost funding to American financial institutions. The System was founded in 1932, *notably, before the existence of federal deposit insurance*. In 1989, when the System was expanded, commercial banks and credit unions were allowed for the first time to become members of the System. Unfortunately, the statute was written in such a way as to prevent state chartered, but *privately insured credit unions* from applying for membership.

The System is not reserved solely for federally insured institutions. Insurance companies are allowed membership in the System and presently borrow more than credit unions. We think privately insured credit unions should have this opportunity as well.

H.R. 3485 proposes a small statutory correction that would allow state chartered, but non-federally insured credit unions to apply to become members of the Home Loan Bank System. This would aid small credit unions like ours with mortgage, consumer and small business lending by allowing a key liquidity source to be available. There are approximately 130 credit unions in the U.S. that are privately insured in nine states. (They are Alabama, California, Idaho, Illinois, Indiana, Maryland, Nevada, Ohio, and Texas) The vast majority of these credit unions are small, community oriented credit unions serving teachers, firefighters, local governments, and medium sized businesses.

Thad Angelle
Chief Executive Officer

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Permitting privately insured credit unions to join the Home Loan Bank System has enjoyed Congressional support before, but has never been enacted into law. In 2004 and 2006, the full House, as part of a regulatory relief bills, approved this change.

We would encourage you to co-sponsor and support the newly introduced H.R. 3584 introduced by Congressman Steve Stivers (R-OH).

Thank you again for your efforts to help small institutions with this statutory change.

Sincerely,

Thad Angelle
President/CEO

Thad Angelle
Chief Executive Officer
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MBa

MORTGAGE BANKERS ASSOCIATION

The Honorable Shelley Moore Capito
Chairman
U.S. House of Representatives
Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
2366 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Gregory W. Meeks
Ranking Member
U.S. House of Representatives
Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
2234 Rayburn House Office Building
Washington, D.C. 20515

December 3, 2013

Dear Chairman Capito and Ranking Member Meeks:

The Mortgage Bankers Association[1] (MBA) appreciates the opportunity to provide the following comments for the House Financial Services Subcommittee on Financial Institutions and Consumer Credit hearing on December 4, 2013, regarding "Examining Regulatory Relief Proposals for Community Financial Institutions."

The hearing is expected to focus on three issues: a) qualifications necessary to satisfy the CFPB's Qualified Mortgage (QM) safe harbor requirements under the ability to repay standard established for lenders serving rural and underserved areas; b) access to the Federal Home Loan Bank (FHLB) System for state-chartered, privately-insured credit unions; and c) the need for coordination among regulators when developing and implementing policy. All of these topics are worthy considerations. In particular, lenders serving rural and underserved areas are critical to ensuring our housing finance system supports borrowers in all communities. Moreover, making capital available to every lender, regardless of size, will foster competition that will ensure consumers have access to the best products at the most affordable terms. MBA notes, however, that these benefits will be limited unless they are extended to all community lenders regardless of business model.

As drafted, however, the benefits of these bills will be limited because they apply only to certain small lenders. According to Home Mortgage Disclosure Act (HMDA) data from 2012, while independent mortgage bankers made up about 11 percent of mortgage lenders nationwide, they acounted for 40 percent of home purchase originations. These lenders operate independent of federally-insured depository institutions, and provide housing finance in virtually every city, town, and county throughout the country. The subcommittee should ensure that independent

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

mortgage bankers are not excluded from the bills under consideration (H.R. 2672 and H.R.3584) because of their business model.

H.R. 2672, the CFPB Rural Designation Petition and Correction Act, should make clear that all lenders remain eligible for the applicable safe harbor. Leaving the criteria open for interpretation could disadvantage certain lenders based solely on their business model, hindering their ability to serve deserving consumers. In effect, the same lending activity could be treated as a QM in the one instance, but as a non-QM loan in another. Qualifying loans should be protected under the QM safe harbor so long as they are originated with the intent of being held in portfolio by a small portfolio lender. (Indeed, the current rules allow loans subject to forward commitments to qualify for the safe harbor, provided the originator meets the CFPB's interpretation.)

The Federal Home Loan Banks are a critical source of capital in the housing market, particularly during times of market distress. Current rules limit membership in a FHLB to lenders of specific business models, notably excluding non-depository, independent mortgage bankers. H.R. 3584, which would authorize privately-insured credit unions to become members of a FHLB, takes a worthy step forward, but should be expanded. The subcommittee should recognize the critical contribution of independent mortgage bankers to the housing market by allowing them to participate in the FHLB system and its programs. Removing the business model barriers currently in place would help ensure that consumers can always count on having access to the most competitive, affordable mortgages – even in times of market turmoil.

Finally, MBA strongly supports the discussion draft that would require coordination among the federal agencies with regard to rulemakings. MBA has repeatedly called for a Housing Policy Coordinator, someone whose sole function is to ensure the rules and regulations governing housing policy compliment one another rather than provide conflicting direction.

MBA appreciates the subcommittee's time and consideration of these issues, and we look forward to continuing this dialogue with you both to ensure the fragile housing recovery reaches all Americans. Thank you in advance for your consideration of these views.

Sincerely,

David H. Stevens
President and Chief Executive Officer

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December 3, 2013

The Honorable Shelley Moore Capito
Chairman
Subcommittee on Financial Institutions
and Consumer Credit
House Financial Services Committee
United States House of Representatives
Washington, D.C. 20515

The Honorable Gregory Meeks
Ranking Member
Subcommittee on Financial Institutions
and Consumer Credit
House Financial Services Committee
United States House of Representatives
Washington, D.C. 20515

Re: Regulatory Relief for Credit Unions

Dear Chairman Capito and Ranking Member Meeks:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I write today in conjunction with tomorrow's legislative hearing, "Examining Regulatory Relief Proposals for Community Financial Institutions" and the proposals before the Subcommittee that would benefit federal credit unions. NAFCU appreciates the subcommittee's continued focus on ways to mitigate the immense regulatory burden credit unions face in the wake of the financial crisis and the *Dodd-Frank Act.*

As you know, at the beginning of the 113th Congress, NAFCU called on lawmakers to provide broad-based regulatory relief to help credit unions of all asset sizes as part of a five-point plan for credit union regulatory relief. On behalf of NAFCU member credit unions and the 97 million credit union members across the country, we want to acknowledge and thank you for efforts the Financial Services Committee has made in passing legislation to reduce redundant privacy notice disclosures and ensure credit unions have insurance parity with banks for Interest on Lawyers Trust Accounts (IOLTAs).

Tomorrow's hearing offers another critical opportunity for credit unions to make a strong case for the type of regulatory relief that the industry so desperately needs. We are pleased that the bipartisan discussion draft circulated by Chairman Capito and Ranking Member Meeks to help ensure that conflicting, inconsistent, and duplicative laws and regulations are addressed at the hearing. NAFCU supports the goals of this bill and, as outlined in our regulatory relief plan, would support additional steps to ensure that regulators are required to conduct a look-back cost-benefit analysis on all new rules after three years. We believe regulators should be required to revisit and modify any rules for which the cost of complying was underestimated by 20% or more from the original estimate at the time of issuance. These hard benchmarks would found in the Capito-Meeks discussion draft and we are hopeful that they would also be considered as the legislation moves forward.

NAFCU also appreciates the work of Representative Andy Barr in introducing the bipartisan *CFPB Rural Designation Petition and Correction Act* (H.R. 2672) that would establish a petition process to ensure "rural" designations for the purposes of some Qualified Mortgage (QM) categories are made fairly. As you know, NAFCU has serious concerns about several aspects of the QM definition including the way in which points and fees are calculated. Representative Barr's bill is a positive step forward in addressing outstanding issues related to QMs. With the QM rule set to take effect next month, we would also urge the Subcommittee to act in a timely manner on other QM fixes pending before it, such as the bipartisan *Mortgage Choice Act of 2013* (H.R. 3211).

Thank you for holding this important hearing. We appreciate the subcommittee reviewing ways to provide regulatory relief to community based financial institutions and look forward to working with you as the legislative process moves forward. If my staff or I can be of assistance to you, of if you have any additional questions regarding this issue, please feel free to contact myself, of NAFCU's Director of Legislative Affairs, Jillian Pevo, at (703) 842-2836.

Sincerely,

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the House Financial Services Subcommittee on Financial Institutions and Consumer Credit

OHIO CREDIT UNION LEAGUE

December 4, 2013

The Honorable Steve Stivers
United States House of Representatives
1022 Longworth House Office Building
Washington, DC 20515

Dear Representative Stivers:

On behalf of the Ohio Credit Union League and Ohio's 58 privately-insured credit unions, I am writing to offer full support for the passage of H.R. 3584. Ohio's privately-insured credit unions serve more than 334,000 members, many of which rely on their credit union for access to home mortgage products. The unintentional barring of financially-strong, well-regulated credit unions from a government-sponsored entity designed to facilitate credit for home buyers should be corrected.

The Federal Home Loan Bank (FHLB) Act was amended in 1989 to allow commercial banks and credit unions the right to seek membership in the system. However, the definition of a credit union was worded incorrectly, mistakenly omitting privately-insured credit unions from applying for membership to the FHLB. We support your efforts to correct this language and grant privately-insured credit unions the option to apply.

Credit unions play an important part in consumer lending and home ownership. In a very tangible way, providing privately-insured credit unions with access to the FHLB system will increase credit union lending and strengthen Ohio's economy. It also increases competition, generating more affordable housing options for qualified buyers.

The Ohio Credit Union League, the trade association representing Ohio's 347 state- and federally-chartered credit unions, strongly supports a credit union's ability to choose optimum business strategies, including its charter (federal or state) and deposit insurer (federal or private/American Share Insurance). This essence of choice enhances a healthy competitive environment that spurs innovation and improved service among regulators, insurers, and credit unions.

Thank you for your sponsorship of H.R. 3584. Please let us know how we can work alongside you in moving this important legislation forward.

Sincerely,

Paul L. Mercer
President

cc: Ohio Congressional Delegation

AMERICA'S CREDIT UNIONS

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December 3, 2013

The Honorable Shelly Moore Capito
Chairman
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Gregory Meeks
Ranking Member
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Capito and Ranking Member Meeks:

As representatives of state chartered, privately insured credit unions, we are writing in support of H.R. 3584, the Capital Access for Small Community Financial Institutions Act. Thank you very much for holding a hearing on this legislation.

Credit unions exist to serve the financial needs of their members. The Federal Home Loan Bank System permits certain financial institutions to apply for membership, helping those institutions meet lending demand with respect to home mortgages, farm loans or other loans that satisfy the collateral requirements of the Home Loan Bank System. Unfortunately, due to what we believe was an oversight in drafting, state-chartered, privately insured credit unions were not included in the group of financial institutions made eligible to join the FHLB System when amendments to the Federal Home Loan Bank Act were enacted in 1989. H.R. 3584 would correct this oversight and permit privately insured credit unions to apply for membership in the FHLB System.

Currently, there are 132 privately insured credit unions that operate in nine states: Ohio, Illinois, Indiana, Maryland, Alabama, Idaho, Nevada, California and Texas. Permitting these credit unions to apply for membership to the FHLB System would help them serve the financial needs of their members, and it would not expose the FHLB System to additional risk. All advances from the FHLB System must be fully collateralized and subject to their strict uniformly applied standard. It is also important to note that other non-federally insured entities are permitted to join the FHLB System, and under current law, state-chartered, privately insured credit unions which also have obtained Community Development Financial Institution status are eligible.

On behalf of the state-chartered, privately insured credit unions that we represent, thank you again for holding the hearing on H.R. 3584. We look forward to working with you to secure its enactment.

Sincerely,

Credit Union National Association
California & Nevada Credit Union Leagues
Cornerstone Credit Union League
Idaho Credit Union League
Illinois Credit Union League
Indiana Credit Union League
League of Southeastern Credit Unions & Affiliates
MD & DC Credit Union Association
Ohio Credit Union League

South Bay Credit Union

November 26, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Hensarling and Ranking Member Waters,

As one of the few remaining privately insured credit unions in America, we are writing you today on behalf of our 7,000 members to seek your support for H.R. 3584 which will allow our credit union access to the Federal Home Loan Banks. Currently, our credit union is limited in our options to seek liquidity which as you know impacts our abilities to make loans to our members.

Credit unions, as not-for-profit cooperatives exist to serve the needs of our members. At South Bay Credit Union we primarily serve the needs of South Bay in Los Angeles County. We were originally established in 1953 to serve city/municipal employees and have been in open to serve all in the South Bay since 2002.

South Bay Credit Union provides auto loans, mortgage loans, credit cards, student loans, small business loans and other services to those who live or work in communities in the Beach Cities, Torrance, Carson, Hawthorne, Harbor City, Inglewood, San Pedro and others. In order for credit unions to continue to meet the demands of this community, we require new and reliable sources that can meet our demands. **H.R. 3584 enables us to do just that.**

After the financial crisis of the last few years, credit unions have worked tirelessly to improve our capital levels, provide new and innovative ways to serve our members, and continue to do what we do best – provide quality financial services to those in our field of membership.

With your help and support of H.R. 3584, South Bay Credit Union will continue to meet the needs of our membership and in turn, we pledge to continue to make loans in the communities we serve.

Thank you, and if you have any questions about how the Congress can better serve the credit unions in our area, please do not hesitate to contact me. Thank you for your continued support of credit unions.

Sincerely,

President and CEO

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