

**U.S. House Financial Services Committee  
Financial Institutions & Consumer Credit Subcommittee Field Hearing  
Cleveland, Ohio  
April 16, 2012  
G. Courtney Haning  
Opening Statement**

Introduction

My name is G. Courtney Haning, and I am the Chairman, President & CEO for the Peoples National Bank, in New Lexington, Ohio. I am also currently the Chairman of the Ohio Bankers League and I am here today speaking on behalf of OBL and our member institutions. We thank you madam chair for bringing this hearing to Ohio and making a special effort to gather information on the state of banking in the nation's heartland.

The OBL represents the interests of Ohio's commercial banks, savings banks, savings associations as well as their holding companies and affiliated organizations. We have over 200 members, which represents the overwhelming majority of all depository institutions doing business in this state. OBL membership represents the full spectrum of FDIC insured depository institutions, from small mutual savings associations, community banks that are the quintessential locally owned and operated businesses, up to large regional and multistate holding companies that have several bank and non-bank affiliates conducting business from coast to coast. Ohio depository institutions directly employ more than 130,000 people.

The Role of Community Banks

I am proud to be a community banker, and today I am here to focus particular attention on the challenges of this segment of banking. While larger financial institutions care about their customers, they do not share the same vested interest in an individual community that I do. That doesn't make big guys bad. It does mean community banks bring a special focus to economic redevelopment in our communities. In many cases we are the only economic engine in our local communities. As a community bank I also have a vested interest in the economic and social health of my local market. If my customer cannot find a good job in my community and leaves, I cannot follow him. So my bank's operations must closely align with local needs.

Like many community banks, my expertise and my competitive advantage is that I am close to my customers which gives me added insight into both their needs and their ability to repay. This extra insight means I can make more loans safely than my bigger, more distant competitors that are more reliant on mathematical models. Many successful small businesses in Ohio, including those that have grown to be large, started with a close call on a loan, made by a community bank which could say yes safely because it knew its customer very well. Unfortunately, this ability to exercise good judgment based on local market knowledge is being threatened both by recent regulatory burdens heaped on banks by Washington, and by inconsistent decisions made by our regulators.

## The Challenges Facing Community Banks

### New & Growing Regulatory Burdens

Most banks here in the Midwest did not participate in the underwriting practices that contributed to the recent recession. Sadly however we are paying for the mandated solutions through additional regulatory burdens, anxious examiners and customers that are not willing to borrow to grow their businesses. These remedies are hitting all segments of our financial statements: our costs are going up, our opportunities to earn revenue providing services our customers want have been curtailed, and both the amount and cost of capital we need to operate in a safe and sound manner is increasing.

I know that your subcommittee has heard a great deal over the past several months about the issue of “to big to fail.” That is an important economic problem that is worthy of your attention, however today I would like to talk about the flip side of that issue. My colleagues and I spend more time worrying whether under the new environment we have become “too small to survive.” When we see the cumulative effect of new regulations and new exam procedures, those of us that have dedicated our career to bringing financial services to small towns and rural areas are concerned if national policy makers understand that smaller banks don’t have the same resources to bring to bear on compliance as the big regional and multistate banks. Let me give you a few examples.

Let me use the recently adopted price controls on debit cards as an example of the problems we face. I know the intent of Dodd – Frank was to exempt community banks from the rule that set a price below my cost of providing this service, however, the retailer will get to choose the transaction processor. Processors competing for business will drive down the price all debit card issues are paid, so in the real world, the exemption will not work. Community banks are already seeing interchange revenue decline. This is income we have spent on benefits we hope will attract customers, such as free checking, convenient branches and more ATMs. Now my debit account income will be far less than my expense. Since Home Depot and other Fortune 500 retailers are telling financial analysts my loss will translate into millions in an annual windfall profits to its shareholders, I truly doubt that consumers will ever see a benefit from this government intervention in the marketplace.

There are also numerous new recordkeeping burdens that will be heaped on banks in the coming months, but I will highlight only one for you today. Under the rules as currently proposed by the SEC, banks will have to register as municipal advisors just to provide the same deposit and loan services we have traditionally provided to local governments. The goal of the underlying statute was to provide some oversight for advisors that fell in gaps between bank and securities regulators, not provide additional oversight to already regulated financial institutions. Yet the rules proposed by the SEC will add to our overhead, without providing additional protections for consumers. It sometimes seems like the right hand doesn’t know what the left hand is doing.

Another example of regulatory overkill is the new overdraft protection rules. Last year, the Federal Reserve, FDIC and OCC all drafted their own guidance and rules to regulate overdraft protection programs. Many banks incurred significant costs developing new forms, operating systems and disclosures not to mention the new training necessary to create an opt in requirement to give consumers a well informed choice regarding this service. Customers have complete control over this service and can revoke their opt in decision at any time. Yet, CFPB has initiated new inquiries into these same programs. This will lead to additional rules and compliance costs. I am worried it could lead to price controls or an arbitrary limit on the number of transactions permitted.

### Evolving Exam Standards

Examiners have a hard job that is made even more challenging in difficult economic times. Most are diligent and professional about the way they approach their responsibilities. Yet there can be no doubt that there has been a change in the way examiners in the field are approaching their job. Examiners are becoming more rigid in their approach, leaving less room for judgment by the local community banker. This is particularly detrimental for local bankers, because as I mentioned previously, our competitive advantage is our knowledge of that local marketplace and local borrowers. If the examiners take away that flexibility through a one size fits all approach, it will handicap our ability to compete.

Let me give you an example to illustrate how the best of intentions can go wrong in the real world and community banks are left with the costs and consequences. Community banks in Ohio are committed to non discriminatory lending; however examiners have become more ridged in the interpretation and application of fair lending laws. Community banks have been forced to defend themselves against charges of racial discrimination based on statistical analysis alone. Let me assure you, the last thing a bank wants to do is violate fair lending standards. Not only is there the risk to our reputation, but any deviation from standards will lead to a referral to the Department of Justice.

Once a referral is made, it seems like the bank is guilty until proven innocent. Referral will freeze any pending applications, causing regulatory limbo until the case is resolved, which can take months. In addition, the community bank will have to hire the enormously expensive outside experts necessary to refute an accusation of discrimination.

While fighting discrimination is an important goal of government, let me tell you the ramifications of the current regulatory regime. We are very hesitant to loan to long time customers if they do not qualify based solely on objective criteria such as their credit scores or their debt-to-income ratio. Some of these customers have had a long term relationship with the bank, but now everyone has to fit into a box. If a customer doesn't fit yet we approve the loan, that borrower will become an exception. If we make an exception, we create an outlier and must justify the reasons for making the loan and our examiners will want to see similar exceptions for outliers in a protective class, or the bank risks the dreaded referral to the DOJ. The result? There is a real chilling effect, so bankers are tempted to stop making exceptions. This takes away one of the key

advantages of being a community banker. All banks are different and all customers are different: it does a great disservice for examiners to create a one-size-fits-all box for us all to live in.

#### Continuing Pressure from Tax-favored Competitors

As a representative of all Ohio banks, I have to take a brief moment to mention the continuing concerns we have regarding the efforts of the credit unions to expand their commercial lending authority and to sell additional capital to the public: in short, become more like banks, without taking on the responsibility of paying taxes.

HR 1418 will permit credit unions to invest up to 27.5% of their assets in commercial loans *in addition to* the SBA loans and loans of less than \$250,000 neither of which would even count against the cap. If enacted, there will be credit unions that will evolve into institutions that exclusively make commercial loans. As a policymaker, you have to ask yourself if that was the rationale behind making all credit unions tax free.

We are not sure why credit unions even need this legislation at this time. They routinely evade the current 12.25% cap that is in place today by using credit union service organization to participate out just enough of the loan to comply with current law.

I know this isn't the focus of your hearing, but you need to be aware that this is becoming an issue of survivability for those community banks that are trying to do business in the shadow of the large credit unions that bring millions of dollars of capital to the marketplace and are supported by huge advertising budgets. We will compete against anyone, but it is difficult when our competitors have a 40% cost advantage as a result of a free pass on federal income taxes and state franchise taxes. Whether or not it has made a conscience choice, if Congress chooses to expand credit union powers without addressing the tax advantage, it will be choosing winners and losers in the marketplace.

#### What Congress can do to help

First, I would like to thank you for introducing HR 3461 to restore consistency to the bank examination process. We would encourage you and your colleagues to follow through and see that the good ideas in that proposal become law. I believe bankers and examiners still want the same thing: a healthy, vibrant, competitive banking system. The Financial Institutions Examination Fairness and Reform Act help both parties achieve that goal.

Finally, I hope your committee will also consider HR 1697, the Communities First Act. This bill contains numerous good ideas that merit your careful review. Even if this bill is too large or diverse to be considered in its entirety, we hope the best ideas can be considered and adopted as amendments to other pending House bills. Issues that would result in immediate savings to your constituents include the following:

- An amendment to the Sarbanes-Oxley Act of 2002 to exempt depository institutions smaller than \$1B from the annual management assessment of internal controls requirements;

- An amendment to permit certain insured depository institutions smaller than \$10B to submit a short form report of condition; and
- An amendment to the Equal Credit Opportunity Act to exempt certain businesses with less than \$1B in assets from a mandatory collection of business data;

Conclusion

I sincerely appreciate the opportunity to testify here today and I would like to thank members of Congress and their staff for coming to my home state to gather information on issues of vital importance.

Banks have served this country well and will continue to provide a significant engine for economic growth and job creation if we are allowed to perform without excessive regulatory burden or inconsistent examination oversight. We would urge the House of Representatives to continue on the path they started at the beginning of the 112<sup>th</sup> session of Congress. Hold bank regulators, including CFPB, accountable for the cost of compliance and ensure the layers of regulation do not accumulate to the point where it is no longer feasible for community banks to continue to serve their local markets.