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OVERSIGHT OF FINANCIAL REGULATORS

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SIXTEENTH CONGRESS
FIRST SESSION
ON
EXAMINING THE EFFORTS, ACTIVITIES, OBJECTIVES, AND PLANS OF
FEDERAL REGULATORY AGENCIES WITH RESPECT TO PRUDENTIAL
REGULATIONS FOR U.S. FINANCIAL INSTITUTIONS AND CREDIT
UNIONS

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C O N T E N T S

WEDNESDAY, MAY 15, 2019

	Page
Opening statement of Chairman Crapo	1
Prepared statement	39
Opening statements, comments, or prepared statements of:	
Senator Brown	3
Prepared statement	40

WITNESSES

Joseph M. Otting, Comptroller of the Currency, Office of the Comptroller of the Currency	5
Prepared statement	41
Responses to written questions of:	
Chairman Crapo	97
Senator Brown	97
Senator Menendez	107
Senator Rounds	107
Senator Tillis	108
Senator Warren	111
Senator Moran	113
Senator Schatz	114
Senator Cortez Masto	115
Senator Smith	121
Senator Sinema	121
Randal K. Quarles, Vice Chairman for Supervision, Board of Governors of the Federal Reserve System	6
Prepared statement	50
Responses to written questions of:	
Chairman Crapo	122
Senator Brown	125
Senator Menendez	197
Senator Rounds	199
Senator Tillis	202
Senator Warner	211
Senator Warren	213
Senator Moran	215
Senator Schatz	216
Senator Cortez Masto	219
Senator Smith	228
Senator Sinema	229
Jelena McWilliams, Chairman, Federal Deposit Insurance Corporation	8
Prepared statement	54
Responses to written questions of:	
Chairman Crapo	230
Senator Brown	233
Senator Menendez	243
Senator Rounds	244
Senator Perdue	245
Senator Tillis	246
Senator Moran	249
Senator Schatz	250
Senator Cortez Masto	252
Senator Sinema	255

IV

	Page
Rodney E. Hood, Chairman, National Credit Union Administration	9
Prepared statement	64
Responses to written questions of:	
Senator Brown	256
Senator Menendez	266
Senator Cortez Masto	268
Senator Sinema	270

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

Letter from an alliance of banking institutions regarding CECL	272
Letter from the Credit Union National Association (CUNA)	275
Letter from the National Association of Federally-Insured Credit Unions (NAFCU)	279
Letter to Secretary Steve Mnuchin and Chairman Jerome Powell regarding comment on proposed amendments from Timothy F. Geithner, Jacob J. Lew, Janet L. Yellen, and Ben S. Bernanke	282

OVERSIGHT OF FINANCIAL REGULATORS

WEDNESDAY, MAY 15, 2019

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

The Committee met at 9:33 a.m., in room SD-538, Dirksen Senate Office Building, Hon. Mike Crapo, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman CRAPO. We are going to come into order. However, we are not going to proceed for a few minutes. We still have to have Mr. Otting, and he is hung up, I understand, getting through the security line right now. So he should be able to be here in just a moment. So we are going to recess, but we needed to gavel it in so that Senators could get on to their other hearings if they want to check in and get moving.

[Recess.]

Chairman CRAPO. The Committee will come to order.

Today we will receive testimony from Joseph Otting, the Comptroller of the Currency; Randal Quarles, Federal Reserve Vice Chairman for Supervision; Jelena McWilliams, Chairman of the FDIC; and Rodney Hood, Chairman of the NCUA. We welcome all of you, and thank you for being here.

This hearing provides the Committee an opportunity to examine the current state of and recent activities related to prudential regulation and supervision.

The Fed's most recent report on Supervision and Regulation reports that the performance of the economy over the last 5 years has contributed to the robust financial performance of the U.S. banking system, and that over the past 5 years, the banking system has expanded loans by nearly 30 percent—an encouraging development.

It has been nearly a year since the enactment of Senate bill 2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act, and each one of your agencies has taken additional steps to implement key provisions of that bill.

I appreciate your agencies' continued diligence to get these and other rulemakings out quickly.

However, there are aspects of some recent proposals that merit further attention, including:

The Community Bank Leverage Ratio. Senator Moran and I wrote to most of you recently encouraging you to establish the CBLR at 8 percent and ensure that the proposed Prompt Corrective

Action framework for the CBLR would not unintentionally deter community banks from utilizing the CBLR framework;

Simplifying the Volcker Rule, including by eliminating the proposed accounting prong and revising the “covered funds” definition’s overly broad application to venture capital, and other long-term investments and loan creation;

Harmonizing margin requirements for inter-affiliate swaps with treatment by the CFTC;

Indexing any dollar-based thresholds in the tailoring proposals to grow over time generally in line with growth in the financial system; and

Continuing to examine whether the regulations that apply to the U.S. operations of foreign banks are tailored to the risk profile of the relevant institutions and consider the existence of home-country regulations that apply on a global basis.

Turning to guidance and supervision, the Banking Committee held a hearing last month on Guidance, Supervisory Expectations, and the Rule of Law.

During that hearing, the Committee examined situations where the Federal banking agencies have enacted guidance or other policy statements that are being enforced as rules and therefore comply with neither notice-and-comment rulemaking processes nor with the Congressional Review Act.

I urge each of your agencies to continue to follow the CRA and submit all rules to Congress, even if they have not gone through the formal notice-and-comment rulemaking and continue to provide more clarity about the applicability of guidance.

More can be done within your agencies to educate and ensure that supervisors know how guidance should be treated and that they do not use the discretion provided to them by Congress in inappropriate ways.

I was encouraged that Vice Chairman Quarles last week recognized that it is incumbent on the Federal Reserve and on financial regulatory agencies to think very carefully through what the agencies mean by supervision and what they mean by regulation and how to use each appropriately.

I was also encouraged that the Fed recently issued a notice of proposed rulemaking to revise its “control” rules under the Bank Holding Company Act.

Vice Chairman Quarles, you noted that the “control framework has developed over time through a Delphic and hermetic process that has generally not benefited from public comment,” and that “this proposal . . . allow[s] public comment on those positions to improve their content and consistency.”

I urge the Fed to thoughtfully consider the severe restrictions on “business relationships” and whether business relationships should apply to expenses of the investee and the investor.

Finally, while I have you all here, I would stress the importance of the agencies remaining neutral, unbiased, and nonpolitical, especially when it comes to reviewing bank mergers and applications, as your agencies have done successfully for many years.

I appreciate each of you taking the time to testify today, and I look forward to hearing more about your respective agencies’ priorities for the rest of 2019.

Senator Brown.

OPENING STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman. We welcome all four of you. As regulators, your jobs are so important to this country, as you know and as we have talked.

When you look at all the rules the regulators have torn up over the last year and a half, you have to wonder if they want to see another financial crisis.

In 2006, back when President Trump was just the president of a fly-by-night university handing out worthless diplomas, he was asked about the possibility of housing prices collapsing and throwing the economy into chaos. He said: "I sort of hope that happens, because then people like me would go in and buy."

Think about that for a moment. It really sums up the President's philosophy about this economy. He basically said he does not care what happens to millions of hardworking families as long as it benefits people like him.

"I sort of hope that happens, because people like me can then come in and buy."

Maybe that is why the economy today seems to be working so well for people like Donald Trump, but not so great for everybody else.

Things look pretty great for banks, as the Chairman said, pretty good for real estate investors, wonderful for the wealthiest Americans. CEO pay is up and up and up. Stock buybacks are up. Real estate prices are up. The Trump tax plan really helped them, too.

But if you care about the dignity of work, if you punch a clock or swipe a badge, your wages are flat. If you honor work, if you respect work, if you are a stay-at-home parent or you take care of your older relatives, you are struggling to get by. Millions of families cannot keep up with the cost of living as it is. They are crossing their fingers that experts are looking out to make sure there is not another crisis on the horizon that is going to wipe away their hard work.

Vice Chair Quarles, I appreciate last week your coming to Cleveland. I appreciate your going. I appreciate your engaging with everybody that you saw in a very constructive way. I appreciate our conversation afterwards. You heard how ZIP Code 44105—my neighborhood, Slavic Village—and many on this Committee have heard me talk about that neighborhood, the highest number of foreclosures in the first half of 2007 than any ZIP Code in America. You know how it was devastated by the crisis. You saw how many families there continue to struggle. You also saw they are hard-working, innovative, and optimistic about the future. Thanks for going and doing that.

The last thing they need is another crisis. There is no bailout for people like them.

When President Trump was confronted about his comments on the financial crisis, he replied, "It is just business."

That is not good enough. It is not fair that people like him get to use bankruptcy for sport, but people struggling with student loan debt cannot use bankruptcy to save their work lives.

It is not fair that workers with stagnant wages and rising prices are left on their own to fend off financial predators, while the new Director of the CFPB is going out of her way to make life easier—easier—easier—for financial companies.

Meanwhile, the people in this Administration who are supposed to look out for regular people are suggesting that hardworking Americans just need to improve their “financial literacy.”

These are the watchdogs who are supposed to—sure, we all should. We all should read more. We all should know more. But these are the watchdogs who are supposed to be looking out for the American people, to make sure they are not steered into a shady loan or an unaffordable mortgage that could bankrupt them. And they seem more concerned with making it easier for Wall Street firms to do as they please.

This will never help Slavic Village.

I am concerned that this Administration is not going to prevent the next crisis, may even cause it.

I am not the only one. As you know, two former Federal Reserve Chairs—one appointed initially by a Democrat, one appointed initially by a Republican—and two Treasury Secretaries that saw the last crisis firsthand delivered a 10-page warning this week about just one of this Administration’s rollbacks on the safety of our financial system.

Fitch, a credit-rating agency, suggested that the changes the regulators are making will make banks riskier and that failures will be more catastrophic.

BB&T and SunTrust are on the verge of creating a bank about 10 times the size of Countrywide, and this Administration so far seems happy to oblige.

The New York Fed reported yesterday that household debt is a trillion dollars higher today than its peak before the crisis a decade ago.

What that number means is that for people across Ohio and across America, this isn’t just business—it’s personal. It is about the hard choices families make when budgeting for rent and groceries and utilities and child care and saving for a downpayment. It is about keeping your promise to your child who wants to go to community college. It is about being able to enjoy a retirement you have earned over a lifetime.

Your job is to protect them. Your job is never to forget what happened 10 years ago even as the virus of collective amnesia seems to have infected the entire Republican caucus and the conference in the U.S. Senate.

Whether it is loosening the rules for foreign mega banks or ignoring risks like leveraged lending or encouraging banks and fintechs to get into payday lending, it does not seem like you take that job seriously enough.

I know the President appointed all of you to your jobs, but you are—his comments notwithstanding, his attacks on some of you or your bosses or your agencies, his personal attacks, all that notwithstanding, you are independent regulators. Your job is to make the economy work for everyone, from Slavic Village to the nicest neighborhoods around Washington.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you, and we will proceed with the testimony now. I remind our witnesses to pay attention to the 5 minutes, as well as our Senators to pay attention to the time.

With that we will proceed in order, starting on my left. Mr. Otting, you may proceed.

STATEMENT OF JOSEPH M. OTTING, COMPTROLLER OF THE CURRENCY, OFFICE OF THE COMPTROLLER OF THE CURRENCY

Mr. OTTING. Good morning, and I would like to apologize to the Committee for being a few minutes late. I got caught up in the Peace Officer Memorial Event outside, which for a few minutes I thought about skipping this hearing and attending that. But it is an honor to be here.

Chairman Crapo, Ranking Member Brown, and Members of the Committee, I am honored to be here with my regulatory colleagues to share my perspective on the condition of our Nation's banking system and our efforts to ensure that the bank supervision operates in the most efficient and effective manner.

Since becoming Comptroller of the Currency in 2017, the OCC has focused on ensuring regulation and supervision support banks' ability to serve their customers and promote economic opportunity while still operating in a safe and sound manner. That work includes the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 as well as advancing several priority items within the agency.

The financial performance of the Nation's banking system improved in 2018 and early 2019, driven primarily by strong operating performance. Capital and liquidity remain near historic highs. Return on equity is near pre-crisis levels, and OCC-supervised banks reported healthy revenue growth in 2018. Net income increased 25 percent for banks with assets less than \$1 billion and increased nearly 50 percent for the Federal banking system as a whole.

The Tax Cuts and Jobs Act accounts for nearly half of the increase while asset quality, as measured by traditional metrics such as delinquencies, nonperforming assets, and losses, is stable and secure.

While the condition of the Federal banking system is strong, the OCC monitors risks on a continuous basis and summarizes those risks twice a year in our *Semiannual Risk Perspective*. Key risks highlighted in the most recent report include credit, operational, compliance, and interest rate risks. These areas continue to evolve in the context of changing economic, technological, and bank operating developments, and we work to ensure that our supervised institutions are aware of and appropriately managing these risks.

Maintaining the viability of the Nation's economy depends in large part on the ability of financial institutions, particularly community and mid-sized banks and savings associations, to operate efficiently, effectively, and without unnecessary regulatory burden.

The Economic Growth Act provided a commonsense bipartisan framework to reduce regulatory burden for small and mid-size banks while safeguarding the Nation's system and protecting consumers. We have made significant progress in implementing this

Act. The Act authorizes the OCC to issue one regulation on its own and to issue others with fellow safety and soundness regulators.

Separately, we are consulting with the Consumer Financial Protection Bureau on a variety of consumer protection requirements in the Act. The regulation tasks solely the OCC to afford Federal savings loans under \$20 billion in consolidated assets business flexibility without the burden of changing charters. In 2018, the OCC proposed a rule to implement this provision of the law, and we plan to issue this rule in the near future.

In December 2018, the agencies jointly issued final rules to expand eligibility for an 18-month examination cycle. This change reduces burdens on well-managed community banks and allows the agencies to focus their resources on more risk and, thus, enhancing the safety and soundness of all financial institutions.

Regulators are working together to finalize other rulemakings to implement the remaining provisions of the Act. Most will be completed in the third quarter of this year, and all are scheduled to be completed by year end. Those efforts include finalizing rules that ease reporting requirements for more than community banks, certain rural residential mortgages under \$400,000 from appraisal requirements, narrow the Volcker Rule to expand banks engaged in riskier activities, and implement a simplified measure of capital adequacy for qualifying communities banks through a community bank leverage ratio.

Regulators are also working to implement rules that exclude custodial banks' qualifying deposits at central banks from the supplementary ledger, qualifying deposits such as those at the central bank. We are also focused on allowing banks to treat qualifying investment-grade municipal securities at Level 2 liquid assets and limit the type of acquisition, development, and construction loans that may be considered high-volatility commercial real estate exposure and subject to heightened capital standards.

We are also finalizing changes to certain aspects of company-run stress tests and tailoring capital and liquidity requirements consistent with Section 401 of the Economic Act.

In addition to these rules, the OCC is focused very specifically on a number of other activities like the Community Reinvestment Act, the Bank Secrecy Act, and promoting small-dollar ticket lending.

My written testimony provides additional detail on the conditions of the Federal banking system, the risk it faces, and the regulatory efforts underway to ensure that banks serve the needs of their customers in a safe and sound manner for decades to come.

I thank the Committee for this opportunity to discuss these important issues and look forward to answering your questions.

CHAIRMAN CRAPO. Thank you, Mr. Otting.

Mr. Quarles.

STATEMENT OF RANDAL K. QUARLES, VICE CHAIRMAN FOR SUPERVISION, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. QUARLES. Thank you. Chairman Crapo, Ranking Member Brown, Members of the Committee, thank you for your time and

for your invitation to testify today on the Federal Reserve's regulation and supervision of the financial system.

My visit today comes 10 years, almost to the day, after the Federal Reserve released the results of its first supervisory stress tests. That exercise was an invention of both urgency and necessity and a tool to move the country's largest financial institutions toward safety and stability. Many innovations from that period are now regular elements of the Federal Reserve's supervisory and regulatory work. These innovations have helped strengthen firms that were damaged by the crisis; they have given supervisors and the public a clearer view of risks in the financial system; they have provided a solid foundation for the Nation's economic recovery. And now—when the financial system and economy are in good health—is the time to consolidate the insights we have gained with experience over time and to better the regulatory framework that we have built.

Today I will briefly review the Federal Reserve's steps to improve that framework since my last appearance before this Committee, outline the supervision and regulation report that accompanies my testimony, and discuss our other engagement on community, consumer, and financial stability issues both at home and abroad.

Almost a year ago, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act. A cornerstone of this legislation was a directive to the regulatory agencies to tailor oversight of institutions to ensure that our regulations match the character of the firms we regulate, with specific congressional direction for firms between \$100 billion and \$250 billion in assets.

The core of the resulting regulatory efforts were the tailoring proposals for domestic institutions that the agencies issued last year. Those proposals share a common goal: to focus our energy and attention on both the institutions that pose the greatest risks to financial stability and the activities that are most likely to challenge safety and soundness.

A more recent proposal addresses prudential requirements for the U.S. operations of foreign banks. Like last year's tailoring proposal for domestic institutions, it categorizes firms according to their size, business model, and risk profile. The proposal differs from the domestic proposals to account for the unique structural differences of foreign banks and asks for input on a number of important issues. I look forward to reviewing the comments that we receive.

We also have been providing targeted regulatory relief, especially for community banks and other less complex organizations.

The Community Bank Leverage Ratio would give community banking organizations a more straightforward approach to satisfying their capital requirements, for example. We also proposed to expand community banking organizations' eligibility for both longer examination cycles and exemptions from holding company capital requirements.

The report accompanying my testimony provides more details on these and other recent regulatory steps, as well as on the overall condition of the banking system.

In the past half-year, the Board has also taken steps to consolidate the role that stress testing plays in our work. Following the

directive from S. 2155, we began to transition less complex firms to an extended testing cycle, reflecting the lower risks that they pose relative to their larger and more complex peers. We published new details of our methodology and models, improving public understanding of the program, while maintaining the integrity of its results. We announced a new stress-testing conference that will take place in July in order to seek public input on our processes. And while maintaining a rigorous evaluation of capital planning, we committed to addressing qualitative deficiencies at most firms through supervisory ratings and enforcement actions rather than through a stand-alone qualitative objection.

As detailed in my written testimony, we have taken other steps that support our supervisory and regulatory framework by making it simpler and more transparent. We also continue to engage with our regulatory counterparts overseas through standard-setting bodies and the Financial Stability Board, where I recently began a 3-year term as Chair.

The strength of our financial system today rests on the insight, patience, and persistence of a decade's work on post-crisis reforms. Only by thoughtfully evaluating the reforms that we have made, and adjusting our approach when appropriate, can we preserve and improve the efficacy and efficiency of our regulatory framework.

Thank you, and I look forward to answering your questions.

CHAIRMAN CRAPO. Thank you, Mr. Quarles.

Ms. McWilliams.

**STATEMENT OF JELENA McWILLIAMS, CHAIRMAN, FEDERAL
DEPOSIT INSURANCE CORPORATION**

Ms. McWILLIAMS. Thank you. Good morning, Chairman Crapo, Ranking Member Brown, Members, and staff of the Committee. It is always nice to be back in this room.

Thank you for the opportunity to testify today about the FDIC's efforts to strengthen our oversight of depository institutions of all sizes and ensure that our regulated institutions are serving their communities.

The Nation's banks are at the center of economic activity in their communities. Their ability to provide safe and secure financial products and services forms the backbone of a strong national economy.

For these reasons, the FDIC's oversight of banks is critical to financial stability and consumer protection. It is incumbent upon us to exercise our oversight judiciously and in a manner that recognizes each institution's unique business model and risk profile.

My written statement details the many actions the FDIC has taken over the past year, both independently and in cooperation with our regulatory partners, to ensure that we are appropriately addressing risks to the system and are not imposing unnecessary regulatory burdens that might impede safe and secure banking activities. The written statement also contains an update on the progress we have made in implementing the Economic Growth, Regulatory Relief, and Consumer Protection Act.

In addition to our supervisory role, the FDIC is tasked with resolving failed banks and, if called upon, large bank holding companies and other systemically important financial institutions.

The FDIC reviews bankruptcy planning requirements for the largest U.S. bank holding companies and the resolution plans filed by larger insured depository institutions. This work, along with other measures, has improved our readiness for these resolutions and helps ensure that market participants, not taxpayers, bear the risk of loss in the event of a large bank failure.

Most of my professional life has been focused on the financial services industry. Before my tenure at the FDIC, I intuitively understood how important our Nation's banks were to the economy. But until I had real conversations with bankers, their customers, and State supervisors on my 50-State listening tour which I commenced, I did not fully appreciate how our banks, particularly community banks, are so intimately involved in the very fabric of their communities and their customers' lives. I am nearly halfway through my tour now. Across the country, these banks help fund a town's grocery stores, barber shops, restaurants, local libraries, and small businesses. In rural communities and urban settings, our banks provide a critical lifeline for low- and moderate-income customers while supplementing infrastructure and social services.

It is the FDIC that provides consumers with the confidence to trust those banks with their deposits. And I would be remiss if I did not mention the 6,000 dedicated FDIC employees who go to work every day laser-focused on protecting the stability and integrity of our financial system. I am proud to stand with them as we fulfill our mission and regulatory mandate to preserve and promote public confidence in the U.S. financial system.

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

Chairman CRAPO. Thank you, Ms. McWilliams.
Mr. Hood.

STATEMENT OF RODNEY E. HOOD, CHAIRMAN, NATIONAL CREDIT UNION ADMINISTRATION

Mr. HOOD. Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to testify today about the state of America's federally insured credit unions and the NCUA's efforts to maintain a safe and sound credit union system.

Federally insured credit unions are vital to the economic stability of communities across America. More than one-third of U.S. households are members of credit unions. In 2018, the credit union system continued to perform well. By year's end, credit union membership grew to more than 116 million members, and assets increased to \$1.45 trillion.

The credit union system is well capitalized with an aggregate net worth ratio of 11.3 percent, well above the 7 percent statutory requirement. The Share Insurance Fund is strong, so strong, in fact, that we have been able to issue nearly \$900 million in Share Insurance Fund dividends over the last two years. Credit unions are using these funds to improve the financial capability of people of modest means, support small businesses, and strengthen communities across the country.

My priority is to strengthen the vitality of the credit union industry by doing even more to bolster underserved communities, includ-

ing those in rural areas, persons with disabilities, and low- to moderate-income households. To that end, I am working closely with the agency's senior leadership, especially the Offices of Minority and Women Inclusion and Credit Union Resources and Expansion, to ensure that NCUA is doing everything we can to assist small and low-income designated credit unions, including encouraging the formation of *de novo* minority depository institutions.

For example, we are helping credit unions navigate the certification process for becoming community development financial institutions. We are also providing grants to low-income designated credit unions through our Community Development Revolving Loan Fund.

Last year, NCUA awarded over \$2 million in technical assistance and urgent needs grants to 211 credit unions to help them develop new products and services, recover from natural disasters, and offer financial services to unbanked and underserved populations. Just last month, we entered into a partnership with the Small Business Administration to help credit unions better utilize the SBA's various lending programs. I further intend to leverage my expertise and experience as a former Rural Housing Administrator at the U.S. Department of Agriculture in order to seek additional opportunities to connect credit unions and their members in rural areas to existing public sector lending programs. And next week I have the honor of presenting a new Federal credit union charter that will serve a Native American community. This low-income designated credit union will provide much-needed financial services to individuals and businesses in one of our Nation's most underserved areas.

On the regulatory front, we are constantly evaluating our regulatory framework to ensure our rules are effective but not excessive. For example, we are in the process of providing credit unions more flexibility under our payday alternative loan program, allowing them to safely offer less expensive small-dollar loan options. Wherever we have the authority to improve the regulatory system and create a safe environment for credit unions and their members, we are doing our level best to do so.

While the credit union system is strong and the NCUA is faithfully executing its mission, I remain focused on the various risks posed by the rapidly changing financial services landscape. Frankly, one of them, cybersecurity, keeps me up at night. Cyber attacks pose an enormous threat to the entire financial system, including credit unions. The credit union system is especially vulnerable to this risk because the NCUA lacks sufficient legal authority to directly identify and address systemic cybersecurity risks within the system. However, strengthening our cyber defenses is one of the NCUA's top priorities, and we collaborate regularly with our peer regulators on how best to address the challenges. As Chairman, I intend to employ the resources necessary to combat cybersecurity threats and ensure data protection for the agency, the credit union industry, and its members.

I want to close by highlighting an area where congressional action dealing with help credit unions better serve their members, especially those of modest means. Amending the Federal Credit Union Act to permit all types of federally chartered credit unions

to add underserved areas to their fields of membership will promote financial inclusion and shared prosperity in underserved and distressed communities. I look forward to working with Members of this Committee on these and other legislative issues.

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

Chairman CRAPO. Thank you very much, Mr. Hood. And to each of you, I appreciate the attention that you have shown in your written testimony as well as your comments today toward implementing Senate bill 2155 as it was intended, and I appreciate your efforts. I had a lot of questions that I was going to ask on that. I will probably submit those to you because I would like to go into an issue, sort of a broader issue that continues to get raised.

I noted in my introductory comments that, as a result of, I think, Senate bill 2155 and of the regulatory activities that we are seeing you engaged in, we have seen a very strong performance of the financial industry, the financial sector in the United States. I noted that that had caused the banking system to expand its loans by nearly 30 percent over the last 5 years.

The attack that is being made seems to imply that that is just benefiting the wealthy, that the loans have been called—this increase in the ability of our system to provide these loans is putting shady loans on folks in the United States who are not of such wealth that they can access higher-quality credit. And the list goes on.

I would just like to ask—I do not want long answers because I want to go further, but who are the beneficiaries of this successful financial industry activity? Is it big, wealthy donors? Or do they have access already to credit? Who are those in our society who are benefited by this increase in a strong, stable banking system? Anybody could jump in on that. Mr. Quarles?

Mr. QUARLES. Well, I think that a dynamic economy benefits everyone. I think we see that currently in the strength of the labor market. We have been bringing people back into the labor market. Our labor force participation rate has been increasing. The unemployment rate is as low as it has been in half a century, and all of that benefits the broad populace and reflects the fact that we have a strong economy that is supported by a dynamic financial sector.

Chairman CRAPO. And small businesses, credit union members, and so forth, right?

Ms. MCWILLIAMS. If I may just add—

Chairman CRAPO. Ms. McWilliams.

Ms. MCWILLIAMS. This is to the Midwest in particular. It is the farmers that are able to get access to credit, and small businesses, as well as the consumers to both refinance their mortgages at better terms and to put their kids through school, et cetera, et cetera. We have been very pleased with the economic activity and the ability of banks to lend credit. And from my personal experience as somebody who barely could refinance my loan in 2008, I can tell you that consumers are better served with some of the favorable terms that banks are able to refinance their home mortgages into.

Chairman CRAPO. Mr. Hood?

Mr. HOOD. Yes, Senator Crapo, the credit union members are definitely benefiting. We are seeing an increase in loan activity to those 116 million members that I mentioned; a good 40 percent of those would be classified as low- or moderate-income. They are getting loans for autos, they are getting loans for their mortgages, and they are also seeing an increase in member business lending as well. So they are definitely benefiting thanks to Senate bill 2155, so thank you.

Chairman CRAPO. And this can be a really quick answer by any of you who wants to, but are these shady loans?

Mr. HOOD. They are well-underwritten loans, sir, with strong underwriting criteria.

Chairman CRAPO. That is what I thought.

Mr. OTTING. Senator Crapo, I would just make a comment. I do think it has been across the economy. However, there are certain segments, like the small-ticket small business and small lending that banks were kind of forced out of. We have been working over the last year and a half to bring banks back into that space. It has been served predominantly by online lenders.

I also think some of the things that we are doing with CRA to open up more opportunities to do things in economic areas that are distressed will be helpful. But I think Mr. Hood's, Chairman Hood's point about these are strong, well-underwritten loans with good loan-to-value's, good DTIs that are being done in the market today.

Chairman CRAPO. Well, thank you. And this question is, I guess, for you, Mr. Quarles. There has been reference to the letter that was sent out just the last day or two from a number of former Fed members, and particularly Ben Bernanke and Janet Yellen. Wasn't that letter referencing an FSOC rule?

Mr. QUARLES. Yes, the letter addressed the proposal for an activities-based approach to financial stability regulation.

Chairman CRAPO. And other than the activities-based focus, which I think is a risk-based focus rather than just a numbers focus, does that letter refer to any of the other implementation of Senate bill 2155?

Mr. QUARLES. No. It is focused entirely on that one measure.

Chairman CRAPO. That is what I also thought. And my question is this—and, again, I would like to—I am pretty much—well, actually, I am down to 10 seconds, so I am going to stop, and I am going to move on and follow my own 5-minute rule and move to Senator Brown.

Senator BROWN. Thanks, Mr. Chairman. I appreciate that.

Mr. Otting, if a car manufacturer cut corners and sold unsafe cars that harmed millions of American families, would you recommend that the Government respond by recommending car mechanic literacy so they can decide for themselves if the car is safe? Yes or no.

Mr. OTTING. I do not think it is a yes-or-no answer. I think you would have to understand the—

Senator BROWN. Well, it kind of is.

Mr. OTTING. Well, I do not view it as a yes-or-no answer.

Senator BROWN. OK. I will try another. Mr. Hood, if a drug company cut corners and sold tainted prescriptions that hurt millions of Americans, would you suggest that we adopt a pharmaceutical

literacy program in our schools so that students can decide for themselves which drugs are safe?

Mr. HOOD. I would need a little bit more information on that, but likely I would need to——

Senator BROWN. Well, common sense would be the information that would come to mind. The question obviously begs the question: Why can't we protect Americans from dangerous financial products like we do in every other industry? I cannot imagine any citizens, stuck in traffic or not, that would come here and you ask that question, of course, they would say Government should have consumer protections for autos; of course, they would say Government should have consumer protections for pharmaceuticals; and, of course, they would say Government should have consumer protections for financial products.

Let me flip for a moment to Mr. Quarles, and I would like you to just—I want to ask you a couple of questions, Mr. Quarles. I want to read you a couple of your quotes, and answer these as concisely as you can. I want to read you a couple of your quotes. I want you to tell me if you said these quotes in 2006 before the subprime mortgage crisis in one of your earlier jobs or if you said it earlier this month about leveraged lending. And I noticed leveraged lending got a bit short shrift in the testimony today even though a number of us had written letters to each of you about the importance of it, and you are on the verge of a major decision.

So if you would answer, Mr. Quarles, if you said this in 2006—these are direct quotes—or if you said them more recently. The first quote: “For the most part, banks that are originating these loans are not keeping them on their books.” Did you say that in 2006 or earlier this month?

Mr. QUARLES. I believe I said that about a week ago in New Haven.

Senator BROWN. Correct. Thank you. That is true.

“If there were to be a sudden repricing, I would not expect this”—“I would not expect that to be financially destabilizing.” “If there were to be a sudden repricing, I would not expect that to be financially destabilizing.” Did you say that leading up to the subprime crisis in 2006 or earlier this month?

Mr. QUARLES. I said that earlier this month.

Senator BROWN. OK. Correct.

Regarding an economic downturn, you said, “I have to say this is an unlikely scenario.” “I have to say this is an unlikely scenario.” Was that recently or back in 2006?

Mr. QUARLES. That was in 2006.

Senator BROWN. OK. Correct. A man with a good memory.

Dismissing news reports regarding risks to the economy, you said, “Earth must be getting hit by a meteor.” Was that earlier this month or back in 2006?

Mr. QUARLES. I use that phrase a lot, but I referred to the Earth getting hit by an asteroid or not getting hit by an asteroid about a week ago.

Senator BROWN. OK. Thank you.

Many financial experts and regulators agree that leveraged lending is a serious concern. I was not impressed first at the cursory mention in testimony today about the importance of leveraged

lending and the risk. I was not impressed with the response that we got from Secretary Mnuchin on a couple of approaches from him.

Given that the subprime crisis took you, Mr. Quarles, and, frankly, all the regulators by surprise back in the Bush years, how should I know from your actions and comments about leveraged lending, how should I know whether the economy is safe or that you are just bad at making economic predictions? Why should the American public feel safe with your actions here?

Mr. QUARLES. So there is not a lot of time left, and we have done a lot with respect to leveraged lending. Let me try very concisely to go through some of this, and I will be glad to expand later or in QFRs, if you would like.

There is the question of risk to financial stability. There is the question of a potential change in the pricing of these assets given the volume of them that has increased to perhaps amplify an economic downturn in the future. Those are two—you know, there is an important difference between them. They are two important questions.

My comments with respect to financial stability, we have done a very careful analysis of whether a sudden repricing of that asset class could have amplifying and destabilizing effects on the financial system as opposed to amplifying effects on a future business downturn. And for a variety of reasons, we do not think that it will.

On the other hand, we are concerned, and appropriately so, about what is the right regulatory response to developments in the underwriting of leveraged loans that could affect a business downturn in the future. And in the last Shared National Credit Exam, which the banking agencies jointly look at the largest credits in the country, we looked at leveraged lending underwriting practices and identified some, a number, where we felt that there needed to be improvement and we examined the banks and we made clear to the banks that those improvements would be appropriate. At the Financial Stability Board, we have been looking on a global basis. One of the first things that I did was begin a process to look at where exposure to the CLO structures, in which most of these leveraged loans are held, are held around the globe, so we have looked at it in the United States, but we are not sure where it is held around the globe. And since we are in an interrelated financial system, it is important that we understand that, and we expect by later this fall or the end of this year to have much more granular and better understanding of where that risk may lie and whether there may be appropriate responses to it.

So there has been a lot of activity, a lot of careful analysis. I think it is important with respect to the comments that you made, important to draw a difference between the point I was making that I do not think that there is a risk to the financial system, to financial stability, versus the question of are there issues we ought to be thinking about, you know, the business cycle and the way that leveraged lending and the volume of leveraged lending and underwriting standards might play into that that we ought to take into account or that we are taking into account.

I am sorry I went over my time.

Senator BROWN. Thank you. And one sentence, I am sorry, Mr. Chairman. And it is important, though, to look at history and listen to your predecessors who warned in very stern language to Treasury Secretaries, to Fed Chairs, including a George Bush-appointed Fed Chair, and what they say about this.

Thank you.

Chairman CRAPO. Thank you.

Senator Moran.

Senator MORAN. Chairman, thank you very much. Thank you to our panel for being here.

I was involved when this Committee passed legislation to reform, to alter Dodd-Frank. It occurred on a straight party-line vote, every Republican voting yes, every Democrat voting no. It became clear to me that the opportunity to actually make some substantive changes in the regulatory environment for lenders would not occur. There were not 60 votes on the floor of the U.S. Senate to accomplish that.

We then spent two years trying to figure out among Republicans and Democrats on this Committee what we could accomplish. The end result was S. 2155.

I was pleased for what I thought would be the outcome of S. 2155, its consequences upon those who lend money and, more importantly than the lenders, those who were actually the recipients of the credit. Unfortunately, when I talk to Kansas lenders today and ask what was the consequence of S. 2155, it is a bit of a shrug of shoulders, hope that something is going to happen, we have not seen much relief.

I was also pleased to see that Republicans and Democrats—I want the U.S. Senate, I want this Committee to function. I was pleased to see that we could find common ground, pass legislation on an important topic that affects the country. And if the end result of what I have seen to date on S. 2155 is the final result, then in my view we have failed. I do not know who “we” is—Congress, the regulators. There is simply not enough consequence to the passage of S. 2155 out in the real world.

Chairwoman McWilliams, I very much appreciate you seeing, listening, learning, traveling the country. It is those bankers and particularly their customers that I am the most concerned about. I am particularly concerned about agriculture. Today when commodity prices are what they are, when weather has been what it has been, the survival of our family farms, our agricultural communities in rural America, is at stake. And I am of the view that, in the absence of a relationship bank—let me say that differently—a relationship between the banker and the lender, the ability for agriculture’s future is minimized significantly. And I have used these hearings as an opportunity from time to time to provide examples of that, but the reality is, when times are tough in agriculture, the survival of agriculture is dependent upon a relationship between the lender and the borrower. Oftentimes that is generational, family-owned financial institution, family-owned farm going back to grandparents, great-grandparents. And in the absence of a bank’s ability, a financial lender’s ability to take into account things that are important, such as character, past history, the ability for the communities that I represent in rural America is very, very bleak.

So I am trying to figure out what it is that either Congress has not done or the regulators have not pursued under S. 2155 to make the difference that I had hoped would be there. The idea that the CBLR that the Chairman mentioned is the best we can do is amazing to me, the call report, that we would have slightly less reporting, a few pages less after all the effort that went into trying to figure out how to do this better. Regulations have their place, but I would indicate that there is little systemic risk to the kind of relationship banks that I wanted to see improvement for.

Again, I point this out to bankers and to credit union management. I am not so much about you and your success. I am about what the consequences are if you do not have that success. And rural America is at a point in time in which the struggles are significant and great. It has been true throughout the history of our country, but these are among the most difficult times there are, and access to credit is key.

I saw this last year when we had grass fires in a county in Kansas in which 80 percent of the grass was burned, and, therefore, the collateral of a cattleman or cattlemaster's operation, there was no collateral left, no cattle, no fences, no grass. And yet the financial institutions in that community said, "We know these people. They will pay their bills." If this becomes always about crossing every "T" and dotting every "I," if it is about looking for more dust, then we will have failed a significant component of our economy, and States like Kansas will be significantly—their future significantly diminished.

My question is: Can I expect more? Is it a matter of timing? Is there conflict within your agencies, within the regulatory community, as to what can be done? Is it divisive? It seems to me there are a number of issues in which the agreement ought to be easily reached, and yet the results do not appear. What is missing? What more needs to be done by either me as a Senator or what can I expect more to happen from regulators? For as long as I have been in the Senate, on the Banking Committee, regulators have said the right things to me: We have an advisory committee. We are studying the issues. We are working on this. But if you ask a banker, has there been any consequence, unfortunately in almost every circumstance the answer is no, or at least not much.

What can I do differently? What can you do differently?

Chairman CRAPO. And if you could keep your responses brief and maybe supplement.

Mr. OTTING. Senator Moran, I appreciate your concerns, and I think you know I was a banker also, and so I do interact with a lot of bankers across America. And my family still owns my original grandfather and grandmother's farm in Iowa, so I am tied very closely into the farming community of what is going on.

I think if you look at the list of the S. 2155 activities, the 20 interagencies that are amongst us, I would tell you there is a great agreement, great interaction. The rule-writing process is something that I was exposed to since I have been in Washington, and it is complex. But I think if we are here on September 30th, you will see the vast majority of those are across the finish line with a few of those that are going to move into the fourth quarter. And I would say there is no conflict. In fact, Jelena and Randy and I

either meet monthly or have a phone call every week, and the topic is always what are the outstanding issues on S. 2155. I know from each of the other agencies and the OCC, we have more resources dedicated to this cause, and so I would say be a little patient with us. We are going to get these across the finish line, and there are no issues amongst us that we have not been able to work out.

Senator MORAN. That is encouraging.

Chairman CRAPO. And if we could let that be the answer for the group and the others supplement it in writing, I would appreciate that.

Senator MORAN. Did I speak too long?

[Laughter.]

Chairman CRAPO. Yes. But it was interesting.

Senator Schatz.

Senator SCHATZ. Thank you, Mr. Chairman. Thank you to all of you for being here.

Mr. Quarles, when you responded to my letter about the financial risks around climate change, you said that the current supervisory work takes into account risks from severe weather shocks. But climate change is accelerating in both frequency and severity, and it is getting worse. If you are relying on historical trends, you are underestimating the risks. So are you relying on historical trends, or are you using data from the National Climate Assessment?

Mr. QUARLES. We are not relying purely on historical trends. Our requirement for institutions is that they have a risk management program that—

Senator SCHATZ. Right, but are you using the National Climate Assessment? Are you using any of the data that the Government generates outside of your agency?

Mr. QUARLES. We require them to take all relevant data into account.

Senator SCHATZ. But are you using the data? The question—

Mr. QUARLES. I personally am not, no.

Senator SCHATZ. Here is the question: The frequency and severity of severe weather events—right?—is going up. And if you are using historical data, then you in your supervisory capacity are underestimating climate risk.

Mr. QUARLES. We do not do that.

Senator SCHATZ. So then—

Mr. QUARLES. We do not rely purely on historical data.

Senator SCHATZ. So are you using the National Climate Assessment? Are you relying on DOD data? Are you going to the National Weather Service? How are you getting your data to assess the increased risk around climate change?

Mr. QUARLES. We require banks to assess their risks, and we require them to—

Senator SCHATZ. Right, but you—

Mr. QUARLES.—look at a broad range of data.

Senator SCHATZ. Hold on. But for you to understand the risk in your supervisory capacity, you have to actually know whether they are booking it properly, and there is tons of evidence that they are not doing it. And so I understand that the burden is on them, but

then the burden is on you to say whether it is adequate. I will just take that as a no.

Have you attempted to quantify the financial risks from changes in the climate itself, in other words, not the episodic severe weather events but fundamental changes like high temperatures, drought, and sea level rise?

Mr. QUARLES. We have not—well, I should be careful there. The Federal Reserve does a lot of research, and we have done research on climate change and how it affects the financial sector. As part of our supervisory processes, we do not do that.

Senator SCHATZ. When you assess banks' loan quality, liquidity, and capital adequacy during times of stress, how do you ask banks to quantify the risk of climate change?

Mr. QUARLES. We require them to take into account their exposure to severe weather events.

Senator SCHATZ. Do you understand the difference between severe weather and climate?

Mr. QUARLES. I do.

Senator SCHATZ. Can you just tell me what it is?

Mr. QUARLES. Climate is a long-term change, and severe weather are specific events.

Senator SCHATZ. Right, and what I am saying is: What is the relationship between climate change and severe weather?

Mr. QUARLES. Well, I am not a meteorologist or a climate scientist, and there are a variety of views about that.

Senator SCHATZ. And yet you have to measure these risks. So do you rely on meteorologists or climate scientists in evaluating whether or not these financial institutions are adequately booking the risk?

Mr. QUARLES. We require the banks to take that information into account. What we evaluate is their risk management system, not their particular conclusions.

Senator SCHATZ. Right, but as the risk profile goes up, it seems to me that both the banks and the institution that supervises the banks needs to somehow load that into their supervisory process, and I am not—I am listening very carefully, but I am not satisfied that you have actually done anything to change your process. As you know, I think there are 36—or 30 central banks and regulators from around the world that are kind of puzzling through this difficult problem. The United States is not participating in that process. Do you commit to participate in that process?

Mr. QUARLES. We are looking very closely at it. I am actively encouraging that we examine it.

Senator SCHATZ. Will you commit to hiring or consulting with climate economists who can translate the physical risks of climate change into economic and financial risks?

Mr. QUARLES. We do that work currently. I mean, we have people on the staff who do that sort of research, as I said earlier.

Senator SCHATZ. Should I take that as a no? I mean, you are satisfied that you are doing this adequately? I mean, I guess that is what I am trying to get at. I am trying to drill down with specific questions, but the basic question is: Are you satisfied that you are doing enough to measure climate risk? Or do you think that you should be doing more, learning more, working with other central

banks, working with economists to constantly update the way you evaluate risk?

Mr. QUARLES. That I wholly agree with you on. We should definitely be engaged in learning more about risk to the financial sector, and that includes climate change risk. Insurance companies, for example, are very focused on that issue.

Senator SCHATZ. Will you commit to engaging with Federal scientific agencies about their assessment of the physical risks of climate change?

Mr. QUARLES. I do not know in what context I would do that, but, you know, we are constantly seeking to inform ourselves about potential risks—

Senator SCHATZ. You do not know in what context you would consult with Federal agencies about the physical risks of climate change? You are not sure about what context that would be in?

Mr. QUARLES. Well, I—yes. Yes; I am not entirely sure what you are asking me to do.

Senator SCHATZ. I am asking you to make sure that, to the extent that the whole of the Federal Government understands, predicts, measures the risks related to climate change, that you make sure you have all of those data sets, you have access to all that expertise, and that it informs your process. Do you commit to that?

Mr. QUARLES. We look at a broad range of information with respect to risks to the financial sector. We—

Senator SCHATZ. So I am hearing that you do not commit to getting the National Climate Assessment, to getting the Quadrennial Defense Review, to working with the National Weather Service and NASA, to working with the USDA, and figuring out whether any of that information may be useful in your supervisory role?

Mr. QUARLES. We do look at all that information, Senator.

Senator SCHATZ. Thank you.

Chairman CRAPO. Senator Toomey.

Senator TOOMEY. Thank you, Mr. Chairman. And I want to thank the witnesses for joining us today.

Let me go back to financial stability, which we discussed a little bit earlier, Vice Chairman Quarles. First of all, I appreciate the work that went into the recent Financial Stability Report, and just as an aside—I think I read it a week or a little over that now, so I may have gotten this wrong, but I seem to remember that one of the conclusions by the Fed's economist in that report was that individual American and American families' consumer balance sheets are actually in quite good shape, that the savings rate is up, total loan amounts relative to their incomes is down, that consumers are in better shape than they have been in for years on a broad, general basis, including consumers of modest means. Am I remembering that correctly, or do I have that wrong?

Mr. QUARLES. You are. Household borrowing is at low levels.

Senator TOOMEY. So in addition to all the data that we see in the headlines about literally record-low unemployment rates, this tremendous growth in workforce participation, the fact that there are more job openings than there are people looking for work, the fact that wages are now growing faster than they have grown in a long time, in addition to all that—and, of course, related to all that—we see that families' and individuals' balance sheets are in better

shape than it has been in many, many years. I would say that is generally really good news for an awful lot of Americans, right?

Mr. QUARLES. I agree.

Senator TOOMEY. Let us talk a little bit about the leveraged loans. There is no question, right, there has been a big increase in the total amount of leveraged loans. But is it true that a large majority of leveraged loans, whether they are through CLOs or otherwise, they are actually not on the balance sheets of banks. Is that true?

Mr. QUARLES. That is correct. Only about 12 percent of the loans originated remain on the balance sheets of the banks.

Senator TOOMEY. So a very large majority are somewhere other than on bank balance sheets.

Mr. QUARLES. Correct.

Senator TOOMEY. And when you are thinking about systemic risk of our financial system, and you think about a big hypothetical future down price draft in an asset class like this, do you generally think it tends to be less of a risk to the financial stability if those assets are held by end investors who are not leveraged themselves? Or would you rather they be on the balance sheets of financial intermediaries like banks that fund themselves with deposits?

Mr. QUARLES. No. It is clearly financial stability enhancing for them to be held either by end users or by intermediate vehicles that have liabilities that are longer than the maturity of the underlying assets, which is how most of these loans are held.

Senator TOOMEY. Exactly. So the short version is the fact that these are held off the balance sheets of banks and by investors other than banks is a significant reduction in the risk that we would otherwise have in the financial system?

Mr. QUARLES. Yes. The one addition I would make to that is that it is key that the holders of exposure to those stable holding vehicles, principally CLOs, are themselves nonrunnable institutions.

Senator TOOMEY. Right, right.

Mr. QUARLES. And that, domestically, we have a good handle on, I believe, but globally, we could do with more information. And there is a significant amount of this exposure that is sold abroad, so that is what the FSB is doing now, is getting a handle on exactly where that international exposure is.

Senator TOOMEY. Right. Let me move on. I had two other things I want to touch on quickly—one for Vice Chairman Quarles—and that is, foreign banks, as you know very well, have a very substantial, very constructive role in the American banking system. They employ over 200,000 Americans. They make a very significant percentage of all the commercial industrial loans. You know all this. In Pennsylvania, we happen to have a number of foreign-owned banks that operate hundreds and hundreds of branches, employ thousands of Pennsylvanians, and provide competition so that my constituents have many choices in banking services.

One of my concerns is that two otherwise very similar banks, similar in size, similar in the role that they play, one owned through a domestic holding company, another owned through an IHC by virtue of its foreign ownership, might be subject to different regulatory regimes, and I am concerned about creating an unlevel

playing field that would ultimately diminish competition, which I think is very good for my constituents.

Could you comment briefly on your thoughts on how we create a level playing field for this regulatory environment?

Mr. QUARLES. Absolutely. You are absolutely right about the participation of foreign banks in our domestic financial system, they have always been about 20, 25 percent of it for all of our lives. Really, it is very important. It is important that they compete on a level playing field, you know, that we give them a level playing field. And we are obliged by law to consider national treatment, giving them a level playing field as we construct our regulatory positions.

The proposals that we have for the foreign banks track very closely the domestic tailoring proposals. There are a couple of differences, and probably the largest is whether we look only at the IHC or at the consolidated U.S. operations in determining the base size of the operation. We have proposed that we look at the consolidated U.S. operations, but we will carefully consider comments as to whether we should adjust that.

I think that that is certainly the right starting place and probably the right place, but we will carefully consider comments otherwise.

Senator TOOMEY. Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator SMITH.

Senator SMITH. Thank you, Chair Crapo and Ranking Member Brown, and I want to thank all of our panelists for being here today. Mr. Quarles, thanks so much for taking the time to come in and see me the other day in my office.

I want to start out by talking about the Community Reinvestment Act. Senator Toomey is talking about the growth in wages and wealth in the United States, but I want to just hone in on one thing. Isn't it true that wealth—for African American families, for example, wealth that they have accumulated is a fraction of what we see nationally amongst the broad population?

Mr. QUARLES. Yes, absolutely.

Senator SMITH. So if we can expand access to credit in underserved areas, we can improve these communities' and these families' stability and their growth and their wealth, and we know that the path to doing that is homeownership and the opportunities for small businesses to grow. And this is true in rural communities and in tribal communities and in communities of color.

You know, just last week I was in Minneapolis and I was talking with an African American small business owner who told me that of all of the African American-owned businesses that he knows, not a single one of them was able to get a business loan without help from some nonprofit to augment their credit. The Community Reinvestment Act is supposed to help us to ensure that banks are serving all Americans.

So let me just ask you, to Mr. Otting and Mr. Quarles, and Ms. McWilliams, as we think about updating the CRA rules, will you commit to not supporting changes to the CRA rules that would reduce oversight over discriminatory lending practices and make it more difficult for borrowers to access credit?

Mr. OTTING. So I probably am the appropriate person to take the CRA question on because the OCC has been an initiator of the rewrite and has partnered with both the FDIC and the Fed to do this. We have been on about a 15-month journey to try to elicit feedback. The OCC alone had 1,000 people that have come in and talked to us about the CRA, and we also received 1,500 comments in the ANPR.

There are four areas we are most focused on in the CRA rewrite: what qualifies, and the historical statute limited small business revenue to \$1 million, so a lot of businesses are restricted by that, but also that small business could be utilized on a broader scale. And so what qualifies.

Second is where does it qualify, and part of the issue is when a bank chooses its assessment area, those CRA activities only count in a very small area, and so we are looking at ways to broaden the assessment areas, because on one side of the street for a particular bank it may qualify, and for the other side of the street it does not, but it is still in their community.

Third, which I think really is important, is how do we measure CRA, and today it is somewhat ambiguous amongst the three agencies and throughout geographics, so we are trying to come up with a way that all of us could understand CRA. And I often say if we were going to examine you for your capital and credit but we would not tell you what the criteria is until after the exam, you would think we were nuts. And that is similar to what gets done with CRA today.

And then I would say just as important, Senator Smith, is we do not have a mechanism to count the aggregate CRA activity being done in America today, and we think we can do that via this rewrite. So we will be able to come every year and talk to you about where the growth in CRA has been across the Nation.

Senator SMITH. So I look forward to continuing this conversation with you, but can you commit to not supporting changes to the CRA rules that would reduce oversight of discriminatory practices?

Mr. OTTING. I absolutely can commit to that.

Senator SMITH. All right. On Monday, Treasury Secretaries Geithner and Lew and former Fed Chairs Bernanke and Yellen wrote a letter raising significant concerns about recent decisions by the Financial Stability Oversight Council, FSOC, to remove systematically important designation from several large nonbank financial institutions, and I want to just ask about this a little bit. They raised concerns over FSOC's approach to try to target risk activities rather than too-big-to-fail institutions.

One of the things that they argued here is that the revised approach that is being suggested could take 6 years or more to move through, and so I want to ask: Would you agree that that is the case? And then how would that work given that so much can change in 6 years? I mean, AIG quadrupled in size just between 2002 and 2005.

Mr. QUARLES. So we just received the letter, and we are looking at it. But the conclusion that the designation process would take 6 years was highly dependent on a number of very contingent assumptions.

Senator SMITH. Based on their experience.

Mr. QUARLES. Well, they did not really have experience with an activities-based approach, so, you know, they were making some assumptions. I do not think that those assumptions are likely to obtain. I do not think that it would take that long. But we are still examining their analysis.

Senator SMITH. Mr. Chairman, I know I am out of time. I would like to request that that letter be introduced into the record, and I will have further questions on the letter for the rest of you following up.

Chairman CRAPO. Without objection, and thank you.

Senator SMITH. Thank you.

Chairman CRAPO. Senator McSally.

Senator MCSALLY. Thank you, Mr. Chairman.

I represent Arizona, and over the last several years, there have been significant challenges with those businesses in Nogales and Douglas, legitimate businesses, family-owned businesses that have had their accounts closed because of the Anti-Money-Laundering and Bank Secrecy Act and how they have been implemented. We have had several roundtables and discussions with many of your agencies about this. This has really hurt our community. While we have got to stop the cartels and illegal cross-border money laundering for sure, we need to make sure that these small businesses are protected who are doing legitimate commerce that includes cross-border.

At the request of Senator McCain and Senator Flake, the GAO did a study of this, which was released last year, and, Comptroller Otting and Vice Chairman Quarles and Chairwoman McWilliams, each of your organizations responded to that by saying you were going to collaborate more with each other to make sure that these rules for anti-money-laundering would be more tailored, to make sure that it is impacting the obviously illegitimate activities without hurting and closing legitimate businesses.

So can each of you give me an update on what you have done since the GAO report and what more there is to do? Because this is really impacting my State.

Mr. OTTING. I can appreciate it, being in California for a period of time and having similar experiences. The one thing that I would advise you is this particular group meets once a month collectively together and our staffs meet once a week, and we have a list of items that we have been focused on to try to bring clarity and we are tailoring where it is appropriate.

The big, I would say, lever to that will be later this year when we plan to update the Examination Manual, and that I think will be more—we are looking more to move toward a risk-based approach on that process. But I would assure you, Senator, that it has our attention not only from the standpoint of the way we execute on AML/BSA today but what the future could look like and how technology will play a role in that.

Senator MCSALLY. So when you say “later this year,” can you give me a timeline? Because, again, these businesses are waiting anxiously for some relief.

Mr. OTTING. It is an enormous underwriting, and I can tell you there are fully dedicated resources. And I would just have to say

I cannot give you like a particular date. I would be happy to keep your office apprised as we move through that process.

Senator MCSALLY. Please do.

Mr. OTTING. But I would tell you it does have our attention.

Senator MCSALLY. And it seems, just from the trends, what we are seeing is a lot of the larger banks, you know, the de-risking activity, they have just, you know, not been willing to engage in these accounts. But some of the smaller banks that are actually coming in to really help this community, they actually have less resources for compliance. And so as we continue down the line here, if you have anything else to add, provide some clarity to even those trends or what else can be done.

Mr. QUARLES. So I think Comptroller Otting said quite correctly that we are all very engaged on this, and we are engaged together. So his description of what we are doing is joint activity. A significant part of this, of course, will be folks who are not at the table, FinCEN and others that are responsible for the BSA/AML regulations. We are responsible for supervising and examining against those regulations, and we are working with them as well to try to reduce the burden associated with this and increase its efficacy, because I think in the modern day of data analysis and manipulation, we ought to be able to be more effective in addition to less costly.

Senator MCSALLY. Exactly. Chair McWilliams?

Ms. MCWILLIAMS. Thank you. If I can just add to that, in the past the disconnect has been that the regulations will be promulgated by FinCEN and OFAC, and we would be on the receiving end of those regulations and our examiners would have to implement them. I met with bankers in both Texas and California and heard about some of these issues. We have actually brought FinCEN to the drafting table as we look at the Examination Manual. Every 10 years when we go through the EGRPRA process, we get comments on these regulations as they are affecting community banks, especially in the border regions. We hear them complain about how difficult it is to do what they need to do without cutting lawful access. At the same time, our hands are tied because we cannot amend the regulations. By bringing FinCEN to the table and engaging with them more proactively, we believe we can come to a better outcome soon, hopefully very soon. I understand the urgency of this issue.

Senator MCSALLY. OK. Great, thanks.

Mr. Hood, do you have anything to add?

Mr. HOOD. Just that credit unions are continuing to be more effective with BSA and AML. We are also part of the working group that Comptroller Otting mentioned. We have not had any of our credit union members experience some of the closing of accounts that you have referenced with the other financial services providers.

Senator MCSALLY. OK, great.

Mr. OTTING. Senator, I would add just one point. I should have brought this up. One thing we did do earlier this year is it used to be that each individual small bank had to have their own AML/BSA resources, and we agreed to allow the banks to share that resource. And the smaller banks will tell you that was a huge relief because of the expense for those types of talent.

Senator MCSALLY. Thank you. I am out of time.

Chairman CRAPO. Thank you.

Senator CORTEZ MASTO.

Senator CORTEZ MASTO. Thank you. Thank you for this hearing.

Let me circle back to the Community Reinvestment Act. This is something that I have been concerned about, and, Mr. Otting, I know this is something that you are dealing with right now. I have been trying to ensure that we have protections in place and they stay robustly in place to prevent redlining, to ensure that our financial institutions are providing credit in low-income and moderate-income communities. And it is the role of the OCC to ensure that that occurs, correct?

Mr. OTTING. Yes, it is, ma'am.

Senator CORTEZ MASTO. OK. And so I know, and we have heard statistics, our Nation has the largest gap between white homeownership and African American homeownership since we began recording it, whites more than 73 percent and African Americans slightly above 41 percent. You are in the process of reforming the CRA, but wouldn't you agree that any changes you make to the CRA should not make that gap worse?

Mr. OTTING. I agree with that.

Senator CORTEZ MASTO. And to make those changes—you just said it earlier—you are receiving public comment to help as you maneuver through this to ensure that that gap does not get worse, and you are taking those public comments into consideration, correct?

Mr. OTTING. That is correct.

Senator CORTEZ MASTO. And some of that public comment you may not agree with, but you are going to take all of it into consideration?

Mr. OTTING. Most of it I do.

Senator CORTEZ MASTO. Right, but that is the nature of it. You get public comments. Some you agree with, some you do not, but you try to do the right thing here and ensure that you are enforcing the law and protecting against redlining. Isn't that correct?

Mr. OTTING. That is correct.

Senator CORTEZ MASTO. OK. So what I do not understand, then, is why, when you receive public comment—and this is the first time I have ever seen a regulatory body do this—you are trying to silence some of that public comment. You sent a letter to California Reinvestment Coalition trying to quiet them. You did an op-ed under Barry Wides, Deputy Comptroller for Community Affairs, talking about how some of the public comment you received you felt was not constructive, and you were scolding them. I am not quite sure what purpose that serves and why and how that benefits—

Mr. OTTING. Because we felt the facts should be accurately reflected, and that particular organization was dispelling false information.

Senator CORTEZ MASTO. OK. And so I do not understand what the false information is. If they—

Mr. OTTING. I would be happy to come by and share that with you.

Senator CORTEZ MASTO. Well, let me just say this: If they have concerns and they are a community organization—let me—

Mr. OTTING. They are——

Senator CORTEZ MASTO. Let me approach it this way because I have only got about 5 minutes, so I appreciate you——

Mr. OTTING. They cannot go out and say false things about——

Senator CORTEZ MASTO.——and you can come in and talk to me about it. Let me approach it this way: To ensure that these financial institutions are complying with the CRA, don't you need to get input from the community and public comment to ensure they are complying?

Mr. OTTING. That is why we met with the thousand separate organizations, got 1,500 comments. When we complete the NPR, we will put it back out for 75 days for additional comment. We——

Senator CORTEZ MASTO. No, even when you are not doing the public comment, once the CRA is in place——

Mr. OTTING. Oh, absolutely.

Senator CORTEZ MASTO.——don't you need community comment? In fact——

Mr. OTTING. In fact, we have 16 people around the United States——

Senator CORTEZ MASTO.——isn't it true—let me just ask you this——

Mr. OTTING.——that does outreach on a consistent basis.

Senator CORTEZ MASTO. Perfect. And isn't it true that a bank wants Federal regulatory approval for a deal like a merger, and when that goes through and community regulators consider the bank's compliance with the CRA at that moment in time and the bank's promises for future compliance measures, so you are—when that happens and mergers occur, you are going out into that community and getting community input. Isn't that true?

Mr. OTTING. There is an open comment period where people are able to offer those comments.

Senator CORTEZ MASTO. Right, and it provides a basis for community groups to comment and say whether or not they think those financial institutions have complied within their community with the CRA——

Mr. OTTING. Absolutely.

Senator CORTEZ MASTO.——isn't that correct?

Mr. OTTING. That is correct.

Senator CORTEZ MASTO. OK. So I guess why I am confused is why, then, is the OCC instructing examiners to investigate some of the claims separately rather than addressing them within the merger approval process?

Mr. OTTING. So I think there is confusion on this topic, and it may be originating by the same group who we wrote the letter about, that what we have done is we have taken the issues and we have provided them to the examiners. That is generally done parallel with the licensing process to allow them to be able to evaluate the validity of any claims, whether they are fair lending or——

Senator CORTEZ MASTO. So what does it matter whether it is an individual or community group? Why are you trying to limit the community group's ability——

Mr. OTTING. We are not trying to limit anything.

Senator CORTEZ MASTO.——to provide that information?

Mr. OTTING. That is an inaccurate statement that we are doing any limiting.

Senator CORTEZ MASTO. OK. So can I ask you this: There is a statement that has been made that has been attributed to you, and it quotes this: "I went through"—and this is you saying this: "I went through a very difficult period with some community groups that did not support our community" when you were with OneWest when you were trying to merge with CIT Bank merger, and you claim they "did not support our community who came"—"and these community groups came in at the bottom of the ninth inning that tried to change the direction of our merger, and so I have a very strong viewpoint."

You have also stated that part of your marginalization plan is to prevent community groups from pole-vaulting in and holding bankers hostage, and so that is why you are trying to prevent these community groups from being able to provide under the CRA their input. Is that true? Are those comments true?

Mr. OTTING. That is not true. Those comments are accurate. However, when I was——

Senator CORTEZ MASTO. Wait a minute. The comments are accurate?

Mr. OTTING. Those comments are accurate. They reflect what I said. And what the reason was is because we had overwhelming support in our community for the merger, and groups came from outside the community that had no input, no data, were not familiar with our organization, and tried to stop the merger. And so they have an open voice. I would never try to cover their voice. I just want it to be an accurate process.

Senator CORTEZ MASTO. So you are telling me right now that the comments that were made that you just talked about, individuals from outside the community came into——

Mr. OTTING. That is right.

Senator CORTEZ MASTO. So the California Reinvestment Coalition and anybody in California——

Mr. OTTING. They were not in our geographic——

Senator CORTEZ MASTO.——they were not within that community?

Mr. OTTING. They were not. They are a Northern California-based organization, and we were a Southern California-based bank.

Senator CORTEZ MASTO. OK. I notice my time is up. I will submit the rest of my questions for the record.

Senator CORTEZ MASTO. Thank you.

Mr. OTTING. Thank you very much.

Chairman CRAPO. Thank you.

Senator Tillis.

Senator TILLIS. Thank you, Mr. Chairman. Thank you all for being here. And, Chair Hood, I cannot help but notice that Carolina blue tie you are wearing. It cannot be by accident. Thank you for being here.

Maybe we could start on a bank merger discussion that is important to me, and that is the BB&T-SunTrust merger. Mr. Quarles, when we talked, we were talking about trying to compress the regulatory approval timeframe from about a year to about 120, 117 days. Now what I am hearing, I am wondering, were those cal-

endar days or legislative days? And what is the current status? I know that we have done two hearings in the field. I would be interested in what more we are going to be doing and then what the time horizon looks like for anybody else who wants to chime in, starting with you.

Mr. QUARLES. Thank you. So we just completed the second of the two public hearings on May 3rd. At the same time, we had extended the comment period for public comment also to May 3rd. We received about 800 comments. We are in the process of both evaluating those and then looking at the proposed merger in terms of both the statutory factors that we are required to consider and the timeframes in which we are required to consider them. And so we will proceed with dispatch.

The analysis, I cannot say exactly how long it will take, but we are proceeding with the time frames in mind and the statutory timeframes in mind.

Senator TILLIS. Well, I know that that is in your lane. I think folks on the other side of the Hill seem to be making comments that they would want to delay the merger. I just hope that we move expeditiously, and I trust you all to go through the proper process.

Mr. QUARLES. I would add that there is a very clear framework that has been imposed on us by Congress. Congress has said what it is that we are to consider in connection with the merger and the timeframes that we are to consider it in. We will follow that congressional instruction.

Senator TILLIS. Thank you.

Now, we had a hearing a couple weeks ago on guidance, and that is something that I think, Chair McWilliams, you have done a great job on taking a look at guidance in your lane and removing the ones that simply did not make sense or should have actually gone through the Administrative Procedures Act. Can you all give me down the line—and we will start with you since this is, I think, your first hearing, Chair Hood, since your confirmation. So go down the line and give me a quick update.

Mr. HOOD. Yes, sir. In my first month on the job, I have been meeting with agency leadership and staff to ensure that we are looking at guidance and not having it misinterpreted as rules.

Senator TILLIS. Thank you.

Ms. MCWILLIAMS. Thank you, Senator. We have been able to retire close to 60 percent of our financial institution letters simply because they were outdated or duplicative. The agency did not previously archive these guidances, and now we have. Also, I think just generally taking a look at guidance and its proper role in our rulemaking process, guidance is not supposed to restate the law. It is not supposed to introduce new interpretations of the law.

Senator TILLIS. So you disagree with some supervisors who appear to think that guidance can override a statute?

Ms. MCWILLIAMS. I tend not to comment on my fellow supervisors, but I will tell you that at the FDIC, we have taken this job very seriously because we need to stay within our lane in terms of our legal interpretations.

Senator TILLIS. Thank you. And as you are going down the line, I also wanted to bring up inter-affiliate margin. I will have to cover

a lot of stuff probably through questions for the record, but, Mr. Quarles?

Mr. QUARLES. So on guidance, we have issued a comprehensive guidance on guidance so that we have in writing for all of our examination and supervisory staff a very clear expectation that guidance is not supposed to be used as the basis for enforcement actions, that it is guidance and not a rule.

I am going around to each of the reserve banks, having town halls with all of the supervisors, discussing the current supervisory practices in general, ensuring that supervisory practices align with our regulatory decisions in Washington. And I will not chew up more of your time with this, but I do think it is a really important question, drawing this line, and Chairman Crapo referred to some comments I had made on it earlier. I think it is incumbent on us at the Fed and all of us to think very carefully in a way that has not been done in decades about where we are drawing the line between what can be accomplished through supervision and what types of things have to be accomplished through regulation, if we are going to accomplish them, and the due process requirements that apply to regulation under the Administrative Procedures Act. We have not done a very good job of that over the course of the last decade, either at the Fed or, I think, the banking regulators generally. Apologies. But I think that some of the issues that you and others on the Committee have been raising have really thrown this question into relief, and we are making it a high priority at the Fed to think about that in a comprehensive, intellectual way, in addition to dealing with some of the specific guidance questions.

Senator TILLIS. Mr. Chair, if you would just let Mr. Otting respond to the question.

Mr. OTTING. Senator, I would echo Randy's comments. We spend an enormous amount of time with the examiners. We have issued guidance on guidance. We have had lots of training to reinforce what guidance truly is. And I do see limited guidance being issued in the future.

Senator TILLIS. That is good news. Thank you all. We will be sending questions for the record to all of you.

Senator TILLIS. Thank you.

Chairman CRAPO. Thank you.

Senator MENENDEZ.

Senator MENENDEZ. Thank you, Mr. Chairman. Thank you all.

Let me ask Comptroller Otting and Vice Chair Quarles, with a simple yes or no, if you can answer it: If any congressional committee subpoenaed you for information on Deutsche Bank or Capital One, would you comply?

Mr. QUARLES. I would have to talk with our lawyers. We would obviously—we have worked well with the Committee over the past. I realize this is not a yes or no, but if it is legal, of course we would comply.

Mr. OTTING. I would echo Randy's comments. We would have to consult our counsel.

Senator MENENDEZ. Do financial institutions have to consult with you before complying with congressional subpoenas?

Mr. QUARLES. Well, I believe—I am looking back at our General Counsel. I mean, we do have limitations on the ability of financial

institutions to share confidential supervisory information with anyone, and so I would expect—I do not know if they are legally required, but I would expect that they would prudentially want to talk to us before sharing what they might think was confidential supervisory information.

Senator MENENDEZ. What about nonconfidential supervisory information?

Mr. QUARLES. I do not think that we would require them to talk to us before sharing information that was not CSI.

Mr. OTTING. Same answer, if it is non-CSI.

Senator MENENDEZ. Aside from steps to protect confidential supervisory information, does not complying with congressional subpoenas create legal risks for banks?

Mr. QUARLES. It has been 20 years since I practiced as a lawyer, but I would think that they ought to think about that question, yes.

Mr. OTTING. I agree. I agree with the answer.

Senator MENENDEZ. Well, the reason I ask you is because last month the House Financial Services and Intelligence Committees subpoenaed both of these entities for records relating to President Trump's businesses as part of their congressional duty to conduct oversight and investigate potential money laundering and foreign influence in U.S. political processes. And now the courts are being used to try to stop the banks from complying with that subpoena. I just want to make it very clear from my perspective, having served in both Houses, there should be no doubt about this. Banks and regulators have no excuse not to comply with a congressional subpoena. Protecting subpoena power is critical so that Congress can exercise its constitutional responsibility of oversight, so we can learn the truth and ultimately make policy choices to safeguard our economy and our country. And I hope that that is the way, if you are called upon, that you will act appropriately.

Comptroller Otting, in a hearing last year before the House Financial Services Committee, you refused to give a straight yes-or-no answer when asked if you believed discrimination exists in America today. So now that you have read the public comments on your CRA proposal, including those by Unidos, the NAACP, State affiliates, New Jersey Citizen Action, do you now believe that discrimination exists in America?

Mr. OTTING. Senator Menendez, that was not my response. My response—

Senator MENENDEZ. Give me your response now.

Mr. OTTING.—was that I did not personally observe that. I also would—

Senator MENENDEZ. But you do not have to observe it to believe that discrimination exists in—

Mr. OTTING. That is correct, and—

Senator MENENDEZ. So I will ask you the question again. Does discrimination exist in—

Mr. OTTING.—the other response that I gave was that my in-laws are all first-generation Hispanic people in this community. Other friends of mine who are from the black community will tell me it exists and they have experienced it. And so, yes, I do believe it exists in America.

Senator MENENDEZ. Thank you very much. I am glad we have gotten that far.

Chair McWilliams and Vice Chair Quarles, because the Community Reinvestment Act is at its core a civil rights law, will you commit to getting the support of the civil rights community before issuing a final rulemaking on the CRA?

Mr. QUARLES. I will take that first. Certainly the process that we are undergoing is to ensure that we have input from the civil rights community, and they have been very supportive of our looking at making this regulation more effective. I think that they are—we have received a lot of support from community organizations, including civil rights organizations generally, about ways in which this regulation can be improved.

Ms. MCWILLIAMS. I can attest, Senator, that as I travel to different States, I try to meet with consumer groups, especially in places where they are very active, to solicit their feedback on the needs of the LMI community as well as what needs to be done for CRA purposes. I have met with a number of CDFIs and CDCs to make sure that their input is heard.

Senator MENENDEZ. I appreciate both of your answers, but could you envision passing a rule where the civil rights community in unity was against the rule?

Mr. QUARLES. If there were unity of the affected communities in opposition to a rule, I think that would be surprising for us to approve a rule.

Senator MENENDEZ. But if it happened, could you envision adopting such a rule?

Ms. MCWILLIAMS. I have worked on some of the rulemakings in the past, and it is almost never in unity that, you know, one part of the industry or consumer community responds. So it is a hypothetical, but I would imagine if there is strong opposition, we would make amends to the rule—

Senator MENENDEZ. Well, I hope you will come up with a rule that ultimately has the support of the civil rights community. If not, I would be looking forward to engaging with you.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Warren.

Senator WARREN. Thank you, Mr. Chairman.

So over the past few years, we have learned about one illegal scheme after another at Wells Fargo. The bank has scammed customers by opening millions of fake accounts. It has unlawfully repossessed tens of thousands of cars, including cars that belong to deployed servicemembers. It has cheated thousands of their own employees out of their hours and kicked hundreds of families out of their homes in unlawful foreclosures.

Regulators, including your agencies, have sued Wells Fargo over and over again to force it to stop scamming its customers. As I understand it, the OCC alone right now has at least three open enforcement actions against the bank.

So, Comptroller Otting, let me ask, on April 3rd you wrote me that the OCC was “disappointed with the Wells Fargo Bank proposal under our consent orders.” Has the OCC’s position changed in the last 5 weeks?

Mr. OTTING. It has not.

Senator WARREN. All right. So you are not alone in being disappointed by Wells Fargo's progress. Chairman Powell and CFPB Director Kraninger have also made it clear that Wells Fargo has not cleaned up its act. But one big thing has changed. CEO Tim Sloan was finally kicked out, so Wells needs a new CEO.

Now, in a law that was passed in the wake of the savings and loan crisis in the 1980s, Congress gave the OCC the authority to examine the "competence, character, experience, or integrity" of candidates for senior positions in a "troubled bank" like Wells Fargo. In other words, the OCC can effectively veto CEO candidates who do not pass muster.

Comptroller Otting, I recently wrote you a letter asking why the OCC waived its right to a troubled bank review in recent settlements with Wells Fargo, and you responded yesterday that the agency was committed to conducting a review of the candidates for Wells Fargo CEO.

Will this review be exactly the review that Congress gave you the authority to conduct? I just want to be clear.

Mr. OTTING. Yes. No, I understand. First of all, Wells is currently not a troubled bank by the definition—

Senator WARREN. I just want to know if you are going to conduct the review according to the authority that has been given to you.

Mr. OTTING. Yes, we will.

Senator WARREN. You will. OK. I am glad, because when you, the OCC, waived the examination in your 2015 order settling claims that Wells Fargo broke anti-money-laundering laws and when you waived the examination in your 2016 fake accounts scandal settlement, the result was that Tim Sloan, a bank insider, complicit in the fake accounts scam, became CEO without a peep from the OCC.

Now, you also told me in your letter that you have decided that you will treat the results of the review as confidential supervisory information, which means that this review will be done in secret, behind closed doors, and never discussed publicly.

Comptroller Otting, under the OCC regulations you have the discretion to disclose this confidential supervisory information when it is "necessary and appropriate." Will you commit to publicly disclosing the OCC's evaluation of the "competence, experience, character, or integrity" of the next Wells CEO?

Mr. OTTING. I will not.

Senator WARREN. Why not?

Mr. OTTING. Because it will be confidential supervisory information.

Senator WARREN. Well, it is confidential if you make it confidential. The point is you have the legal authority to—

Mr. OTTING. At this point in time, I do not have plans to release that information publicly.

Senator WARREN. And what is the reason that you do not have plans? Why are you keeping this secret?

Mr. OTTING. Because, as you indicated, it is my prerogative.

Senator WARREN. OK. And our job is oversight here. So I would like to know why you want to exercise your prerogative to keep secret—

Mr. OTTING. I have not exercised——

Senator WARREN.—the oversight that the OCC has ducked repeatedly.

Mr. OTTING. Senator Warren, no one has been tougher on Wells Fargo than myself. No one has been more outspoken——

Senator WARREN. You mean at the OCC? That is a low bar.

Mr. OTTING. I would disagree with that. I find that insulting that you would make that comment.

Senator WARREN. Good. You know, people all across this country were scammed and squeezed by Wells Fargo. Their houses were taken away, their cars were stolen, because the bank's executives were more concerned about making mountains of money than about following the law. And the OCC never uttered a peep about their executives who were leading this. The OCC blew it once by letting Tim Sloan take over. This time you need to show your work and make your supervision public. That way consumers and Congress can hold you accountable, too.

Mr. OTTING. I appreciate the request.

Chairman CRAPO. Thank you.

Senator Jones.

Senator JONES. Thank you, Mr. Chairman. And thank you all for being here today.

I would like to follow up in a moment with something that Senator Moran said. I will be very charitable to him and call it a "question." But like my friend on the other side of the aisle, I am also very concerned about the future of rural America and agriculture in this country. Times, as he said, are tough, the future is bleak, and I think he said struggles in rural America are great, and they are because agriculture is being so victimized by nature and fluctuating markets. But I would also add a couple of things.

Number one, it is not just natural disasters. It is congressional disasters, when we cannot find congressional aid, supplemental aid to help these people, and we cannot put—the Congress and the Administration cannot put their politics aside to get some aid to these farmers and folks who need it desperately.

And the other thing is the markets that are leaving because of the Chinese tariffs. That is a huge problem, and we can have wonderful relationships with bankers, but that is not going to do any good if we do not have crops and we do not have commodities and we do not have markets to sell those commodities, and those relationships are going to get strained mightily if that banker is sitting at a witness table at a 341 bankruptcy hearing as the chief creditor for these farmers. So there are a lot of reasons, and I agree with Senator Moran about the relationship banking. I am a big, big proponent of that.

So now that I have gotten through with my "question" on that, as Senator Moran did, I would like to ask just a couple of little bit easier ones. CECL, the current expected credit loss model that is being considered by FASB, Senator Tillis and I and about 15 colleagues sent a letter expressing concern about that. I know that you are looking at that issue. I am concerned about how credit will be available in downturns of the economy, and what I see often in Congress and through regulation is that it is the unintended consequences that are not adequately looked at.

So I would like to ask Vice Chairman Quarles and Chairwoman McWilliams if you could just briefly talk to me about that, making sure that that is on your radar, and the fact that you are reaching out to institutions to get their concerns.

Mr. QUARLES. Yes, Senator, very much. CECL is very much on our radar. We have received a broad range of estimates of what the potential effect of CECL would be, both its so-called day one effect, potentially increasing reserves immediately upon its implementation and what its potential procyclical effect might be. And, again, from the industry, large and small, from the accountants, from academics, from our own staff, the assessments in each of those areas have been widely varying.

So what we have done, given that we do not actually control either the content of the accounting standard or the timing of its implementation, because that is controlled by FASB, we proposed a phase-in process so that essentially we will hold the effect of this will be phased in over time because of the way we will treat our capital rules and any potential increase in reserving under the capital rules, until we see exactly what the effects are, given these widely varying estimates that have been made of them. And if we see some of these adverse consequences that have been proposed, we have the tools to be able to address them by adjusting other aspects of the regulatory system to ensure that it is not a burden on the banks.

Senator JONES. Thank you.

Ms. McWilliams, just briefly.

Ms. MCWILLIAMS. Sure. I have to tell you that is the number one question I hear from community banks as I travel around the country. I am coming to Alabama in August, and I suspect that is going to be the first question they ask me. The issue is expected versus probable incurred losses, and the standard has changed. You know, as Vice Chairman Quarles said, FASB is in charge of the rule. We have met collectively with the FASB Chairman and the board members to talk about our concerns with implementation, and we are actively working with banks to make sure they understand how to comply with whatever is done within our purview. So long as banks have to follow U.S. GAAP, which is a statutory requirement and FASB sets the GAAP standards, our hands are somewhat tied.

Senator JONES. Thank you. I want to follow up with you, Chair McWilliams, real quick on an issue that is important to me and I think is getting a lot of bipartisan support. We have got a problem in this country, I think, right now where, based on something that happened in the 1950s, so many people are getting excluded from being able to work at banks because of misdemeanor convictions, criminal convictions that really have no relevance to today's world. I heard from one bank that they had to fire an employee, a customer service representative, simply because they found that she had a shoplifting misdemeanor from 1972. And I think there is just something fundamentally wrong with institutions being forced to let people go much less keeping people out of that market at a time when we need to be inviting good people to join it.

Is this something that you are looking at? Is it something that any of you are looking at, but particularly—and, Mr. Hood, I see

you ready to answer—so we can kind of get more people into this and get rid of this just arcane law?

Mr. HOOD. Yes, Senator Jones. It is something that we at NCUA are examining. In fact, within my first month, one of the first votes I was able to cast was for a person who did have one of these convictions many years ago, but she has now for the past 40 years been able to operate safely and soundly, and she now has the authority and opportunity to work at a federally insured credit union if the opportunity presents itself. So the process does work. She served her time and paid her debt to society, and we are happy to have her join our workforce someday.

Senator JONES. All right. I want to follow up, though, and, Ms. McWilliams, I may follow up in writing, because what I am really looking at is what we can do to streamline that process. I know you can get waivers, but that is a cumbersome process, and that waiver process alone sometimes has that chilling effect on people applying. So I will follow up with both of you on that since I am way over time, like Senator Moran was.

Chairman CRAPO. Well, thank you. And there are a couple who have asked for a second round. I would like to finish by 11:30 if we can, so I will proceed. Senator Brown. And we may only have one request.

Senator BROWN. Thanks. Thank you again for your patience, all four of you. I am glad you got to say something, Mr. Hood, after all this. It is not always an advantage to get to be able to talk at these hearings.

You know, Americans increasingly are concerned or alarmed, or worse, about what is happening in industry after industry. I think if you ask the flying public about airline consolidation and airline mergers, when a city—two in Ohio, Cleveland and Cincinnati—were “victimized,” is probably the right word, by major airline mergers, it hurts employees, it hurts the flying public, it hurts the communities. It is good for the executives, typically.

In big tech, we know the increasing problems there about data and privacy. Senator Crapo and I want to work on those issues together.

We know what happens with mega farms. We know what happens environmentally with the problems with Lake Erie in part are because of mega farms and how that pushes some small farmers too often off the land.

My colleague in Wisconsin, Senator Baldwin, has pointed out to me how many dairy farms have gone out of business just in the last couple of years. I think the Trump tariffs are part of it, but more than that, there is so much else.

So my question to any of you, are you in favor of the consolidation of the banking industry that will inevitably leave us with a few large banks and fewer community banks? Mr. Otting?

Mr. OTTING. Am I in favor—

Senator BROWN. And keep your answer close to a yes or no.

Mr. OTTING. It is a long-term trend. I think what we have really tried to do on the startup side of that is be very open to having *de novos* and minority deposit institutions trying to gather more—

Senator BROWN. It is hard to imagine startups are going to compensate for these mega mergers.

Mr. Quarles, as briefly as you can on it.

Mr. QUARLES. I think that competition in the banking industry is as good as competition is anywhere, and so as we look at consolidation, we try to ensure that we are maintaining a competitive system.

Senator BROWN. With all the advantages that bigness brings.

Ms. McWilliams?

Ms. McWILLIAMS. Sure. Consolidation has been happening, as you know, for decades now. We are looking at ways to enable banks, smaller banks in particular, to compete so that the effects of consolidation on the industry and the marketplace and the communities they serve is not felt as hard as it could be otherwise.

Senator BROWN. Mr. Hood?

Mr. HOOD. I will be working diligently with our agency and senior leaders to see what we can do to reduce the regulatory burden on some of our smaller credit unions. While there has been consolidation, we want to help the ones that still remain, we want to make sure that they are able to grow, thrive, and serve their members.

I announced earlier that I will be working on *de novo* credit unions. I am presenting a credit union charter to a Native tribe of Indians next weekend. So *de novos* do exist, and I look forward to seeing more of them.

Senator BROWN. Thank you, all four of you.

Mr. Vice Chair, while we were debating S. 2155, Chair Powell and others at the Fed assured me that the law would change treatment of domestic regional banks but not require changes to how the Fed treats foreign banks, foreign mega banks with U.S. operations, especially nonglobally systemic banks. Last month, you announced your proposal and said, "This proposal should look familiar because it shares the same basic framework as the domestic proposal." I realize you noted domestic and foreign banks will not be treated "identically," I think was your word. But isn't it true that under your proposal, foreign mega banks will see reduced regulation of their U.S. operations, including the U.S. operations of some globally systemic banks?

Mr. QUARLES. There will be changes in the regulation, but there will be some significant increases as well. The liquidity requirements on U.S. operations of foreign banks as a result of our proposal are measurably higher, almost 4 percent higher by our estimates, as a result of this proposal.

Senator BROWN. But aren't foreign banks that have hundreds of billions in global assets—you plan on applying enhanced prudential standards in categories based on assets in the United States, so as if that foreign bank was comparable to, say, Huntington and Columbus with assets of more or less \$100 billion?

Mr. QUARLES. I mean, we are looking at the risk of the U.S. operations to the risk to the U.S. economy. I think that is our obligation as regulators. But we do not ignore the fact that those operations are part of a global institution, and we regularly engage with the foreign regulators in the home country for the home jurisdiction. And there are certain aspects of the proposal that take into

account, you know, the branch operations, which are part of the global bank, the branch operations in the United States in a way that would not be done for a domestic institution.

Senator BROWN. Did S. 2155 require you to make those changes for foreign mega banks?

Mr. QUARLES. No.

Senator BROWN. OK. So apparently you and Chair Powell wanted to do, for whatever public policy reason, some kind of favor for the foreign mega banks.

Last question, Mr. Otting. You know many of us are concerned about your plans for the Community Reinvestment Act. You said at the Milken Institute, "Anybody who feels that we are weakening CRA is either misinformed or is economically advantaged by the current structure."

Does that mean you are saying that communities that have been the victims of redlining and other lending discrimination are not smart enough to understand the benefit of requiring banks to lend in their communities?

Mr. OTTING. Two separate issues, people talking about gutting and reducing what banks have to do. I can assure you all of us sitting at the table here feel banks should do more, and we need to give them a measurement and criteria to be able to do that, and that is what that quote was in regards to.

Senator BROWN. So you think—OK. I will leave it at that. Thank you, all four of you.

Chairman CRAPO. All right. Thank you. That concludes the questions.

I will use my time for a second round just to make an observation on a different issue, and that is the joint effort that Senator Brown has referenced that he and I are engaged in for data privacy and trying to resolve some of the issues of big data in the country right now.

The Banking Committee held its first hearing to understand the European Union's General Data Protection Regulation and how individuals can be given real control over their data that is used in ways that has an immense impact on their financial lives. Earlier this month, the Wall Street Journal reported that Facebook is recruiting dozens of financial firms and merchants to launch a cryptocurrency-based payment system, which comes after Facebook last year asked U.S. banks to share detailed financial information about their customers.

Last week, Senator Brown and I wrote a letter to Facebook asking questions about their new cryptocurrency-based system, including critical questions related to privacy and consumer protections under this new payment system, consumer information collection and sharing and use, as well as protection, and how Facebook ensures that it is not using the consumer information in violation of the Fair Credit Reporting Act.

Given Facebook's reach to billions of active users, access to vast amounts of consumer information, engagement in financial services-like activities, and work with numerous financial service firms, it seems appropriate that Federal financial regulations would be appropriate and that our Federal financial regulators would need to understand the nature of Facebook's financial services activities

and engage to ensure that it follows all applicable laws and regulations. And so I just bring that issue to the attention of each of you as our regulators.

And, by the way, this does not apply just to Facebook. The explosion of data collection, sharing, management, and use that is going on right now that impacts specifically consumers and users of credit and people engaging in our financial sector is becoming ever larger, and I appreciate the fact that Senator Brown is working with me together on this issue. It is a joint effort to address how we need to deal with this issue. So I encourage you as our regulators to pay attention to this issue as well. We have Gramm-Leach-Bliley and we have the Fair Credit Reporting Act and other statutes that I think, importantly, necessarily raise questions about how we approach the appropriate oversight of what I will call “big data” and “individual privacy.”

With that, our questioning and commenting is concluded, and for Senators who wish to submit questions for the record, those questions are due to the Committee by Wednesday, May 22nd. We ask the witnesses as always to respond as quickly as you can.

Again, I thank you all for your time and your efforts and attention to these issues, and this hearing is adjourned.

[Whereupon, at 11:26 a.m., the hearing was adjourned.]

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

PREPARED STATEMENT OF CHAIRMAN MIKE CRAPO

Today we will receive testimony from Randy Quarles, Federal Reserve Vice Chairman for Supervision; Joseph Otting, OCC Comptroller of the Currency; Jelena McWilliams, Chairman of the FDIC; and Rodney Hood, Chairman of the NCUA.

This hearing provides the Committee an opportunity to examine the current state of and recent activities related to prudential regulation and supervision.

The Fed's most recent report on Supervision and Regulation reports that the performance of the economy over the last 5 years has contributed to the robust financial performance of the U.S. banking system, and that over the past 5 years, the banking system has expanded loans by nearly 30 percent—an encouraging development.

It has been nearly a year since the enactment of S. 2155, the Economic Growth, Regulatory Relief and Consumer Protection Act, and each one of your agencies has taken additional steps to implement key provisions of the bill.

I appreciate your agencies' continued diligence to get these and other rulemakings out quickly.

However, there are aspects of some recent proposals that merit further attention, including:

- The Community Bank Leverage Ratio (CBLR). Senator Moran and I wrote to most of you recently encouraging you to establish the CBLR at 8 percent and ensure that the proposed Prompt Corrective Action framework for the CBLR would not unintentionally deter community banks from utilizing the CBLR framework;
- Simplifying the Volcker Rule, including by eliminating the proposed accounting prong and revising the “covered funds” definition's overly broad application to venture capital, other long-term investments and loan creation;
- Harmonizing margin requirements for inter-affiliate swaps with treatment by the CFTC;
- Indexing any dollar-based thresholds in the tailoring proposals to grow over time generally in line with growth in the financial system; and
- Continuing to examine whether the regulations that apply to the U.S. operations of foreign banks are tailored to the risk profile of the relevant institutions and consider the existence of home country regulations that apply on a global basis.

Turning to guidance and supervision, the Banking Committee held a hearing last month on Guidance, Supervisory Expectations and the Rule of Law.

During that hearing, the Committee examined situations where the Federal banking agencies have enacted guidance or other policy statements that are being enforced as rules and therefore comply with neither notice-and-comment rulemaking processes nor with the Congressional Review Act (CRA).

I urge each of your agencies to continue to follow the CRA and submit all rules to Congress, even if they have not gone through formal notice-and-comment rulemaking and continue to provide more clarity about the applicability of guidance.

More can be done within your agencies to educate and ensure that supervisors know how guidance should be treated and that they do not use the discretion provided to them by Congress in inappropriate ways.

I was encouraged that Vice Chairman Quarles last week recognized that it is incumbent on the Federal Reserve and on financial regulatory agencies to think very carefully through what the agencies mean by supervision and what they mean by regulation, and how to use each appropriately.

I was also encouraged that the Fed recently issued a notice of proposed rulemaking to revise its “control” rules under the Bank Holding Company Act.

Vice Chairman Quarles, you noted that the “control framework has developed over time through a Delphic and hermetic process that has generally not benefited from public comment,” and that “this proposal . . . allow[s] public comment on those positions to improve their content and consistency.”

I urge the Fed to thoughtfully consider the severe restrictions on “business relationships” and whether business relationships should apply to expenses of the investee and investor.

Finally, while I have you all here, I would stress the importance of agencies remaining neutral, unbiased and nonpolitical, especially when it comes to reviewing bank mergers and applications, as your agencies have done successfully for many years.

I appreciate each of you taking the time to testify today, and I look forward to hearing more about your respective agencies' priorities for the rest of 2019.

PREPARED STATEMENT OF SENATOR SHERROD BROWN

When you look at all the rules the regulators have torn up over the last year and a half, you have to wonder if they **want** to see another financial crisis.

In 2006, back when President Trump was just the president of a fly by-night university handing out worthless diplomas, he was asked about the possibility of housing prices collapsing and throwing the economy into chaos. He said: **"I sort of hope that happens, because then people like me would go in and buy."**

Think about that for a moment, it really sums up the President's philosophy about this economy. He basically said that he doesn't care what happens to millions of hardworking families as long as it benefits people like him.

Maybe that's why the economy seems to be **working so well for people like Trump**, but not so great for everybody else.

Things look pretty great for banks, real estate investors, and the wealthiest Americans. CEO pay is up. Stock buybacks are up. Real estate prices are up. And the Trump tax plan really helped out, too.

But if you punch a clock or swipe a badge—**your wages are flat**. If you're a stay at home parent or you take care of your older relatives, **you're struggling to get by**. Millions of families can't keep up with the cost of living as it is—and they're crossing their fingers that experts are looking out to **make sure there's not another crisis** on the horizon that's going to **wipe out** all of their hard work.

Vice Chair Quarles, I appreciate you coming to Cleveland last week. You heard how 44105—Slavic Village—was devastated by the crisis, and you saw how too many families there continue to struggle. But you also saw how they are hard-working, innovative, and optimistic about the future.

The last thing they need is another crisis. There's **no bailout** for people like them.

When President Trump was confronted about his comments on the financial crisis, he replied **"it's just business."**

That's not good enough. It's not fair that people like him get to use bankruptcy for sport, but people struggling with student loan debt can't use bankruptcy to save their lives.

It's not fair that workers with stagnant wages and rising prices are left on their own to fend off financial predators, while the new Director of the CFPB is going out of her way to make life easier for financial companies.

Meanwhile, the people in this Administration who are supposed to look out for regular people, are instead suggesting that hardworking Americans just need to improve their **"financial literacy."**

These are the watchdogs who are supposed to be looking out for the American people, to make sure they aren't steered into a shady loan or unaffordable mortgage that could bankrupt them. And they seem more concerned with making it easier for Wall Street firms to do as they please.

This isn't going to help Slavic Village.

I'm concerned that this Administration isn't going to prevent the next financial crisis, and may even cause it.

And I'm not the only one. Two former Federal Reserve Chairs and two Treasury Secretaries that saw the last crisis first hand-delivered a 10-page warning this week about just one of this Administration's rollbacks on the safety of our financial system.

Fitch, a credit-rating agency, has also suggested that the changes the regulators are making will **make banks riskier**, and their **failures more catastrophic**.

BB&T and SunTrust are on the verge of creating a bank more than **ten times the size of Countrywide**, and this Administration is happy to oblige.

The New York Fed reported yesterday that household debt is a **trillion dollars higher today** than its peak before the 2008 crisis.

What that number means is that for people across Ohio and across America, this isn't **just business**—it's personal. It's about the hard choices families make when budgeting for rent and groceries and childcare and savings for a down payment. It's about keeping your promise to your child who wants to go to college. It's about being able to enjoy a retirement you earned over a lifetime.

Your job is to protect **them**.

Whether it's loosening the rules for foreign megabanks, or ignoring risks like leveraged lending, or encouraging banks and fintechs to get into payday lending, it does not seem like you are taking that job seriously.

I know the President appointed all of you to your jobs, but you are **independent** financial regulators. Your job is to make the economy work for everyone—**not just people like him**.

PREPARED STATEMENT OF JOSEPH M. OTTING

COMPTROLLER OF THE CURRENCY, OFFICE OF THE COMPTROLLER OF THE CURRENCY *

MAY 15, 2019

Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to testify on the Office of the Comptroller of the Currency's (OCC) supervision and regulation of financial institutions. My testimony today primarily focuses on the condition of the Federal banking system, and the OCC's priorities and objectives.

Condition of the Federal Banking System and Assessment of Risks

As of the end of 2018, the Federal banking system comprised more than 1,200 national banks, Federal savings associations, and Federal branches of foreign banks (banks) operating in the United States. These banks range in size from small community banks to the largest most globally active U.S. banks. The vast majority of national banks and Federal savings associations, approximately 968, have less than \$1 billion in assets, while more than 60 have greater than \$10 billion in assets. Combined, these banks hold \$12.7 trillion or almost 70 percent of all assets of U.S. commercial banks. These banks also manage more than \$50 trillion in assets held in custody or under fiduciary control, which amounts to 43 percent of all fiduciary and custodial assets in insured U.S. banks, savings associations, and national trust banks. The Federal banking system holds nearly three-quarters of credit card balances in the country, while servicing almost a third of all residential mortgages. Through their products and services, a majority of American families have one or more relationships with an OCC-regulated bank.

The condition of the Federal banking system is strong. The financial performance of banks making up the Federal banking system strengthened in 2018 and early 2019, driven primarily by strong operating performance. Capital and liquidity remain at or near historic highs. Return on equity is near pre-crisis levels, and OCC-supervised banks reported healthy revenue growth in 2018 compared with 2017. Net income increased 25 percent for banks with total assets of less than \$1 billion and increased nearly 50 percent for the Federal banking system as a whole, with tax cuts resulting from the Tax Cuts and Jobs Act accounting for approximately half of the increase. Asset quality has historically been impacted by cyclicalities; however, as measured by traditional metrics such as delinquencies, nonperforming assets, and losses, asset quality is currently strong and stable. Loan performance is the best it has been in the past decade.¹

The health of the Federal banking system is reflected also in the declining number of outstanding Matters Requiring Attention (MRA) concerns. One way the OCC communicates supervisory concerns about a bank's deficient practices to a bank's board and management is in the form of MRAs. In 2018, the number of outstanding MRA concerns declined for the sixth consecutive year and to the lowest level since 2006. Banks have invested significant time and resources addressing our supervisory concerns, and the declines in outstanding MRAs represent sustained improvements in bank governance, oversight, and risk management systems and controls.

While the condition of the Federal banking system is strong, the OCC monitors risks to the system on a continuous basis and publishes a summary of risks facing banks twice a year in our *Semiannual Risk Perspective*. Key risks highlighted in the most recent issue of the report, published in December 2018, include credit, operational, compliance, and interest rate, as discussed below. These areas continue to evolve in the context of changing economic, technological, and bank operating developments.

Credit quality remains strong when measured by traditional performance metrics. Nonetheless, credit risk is increasing because of accumulated risk in loan portfolios from successive years of incremental easing in underwriting, risk layering, concentrations, and rising potential impact from external factors. The OCC continues to monitor the effects of strong competition, within and outside the Federal banking system, particularly on the origination quality of new loans. In addition, the OCC is monitoring for any increased levels of lender complacency within credit risk identification and management.

* Statement Required by 12 U.S.C. § 250:

The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

¹ See *Semiannual Risk Perspective*, Fall 2018 (<https://occ.gov/publications/publications-by-type/semiannual-risk-perspective/pub-semiannual-risk-perspective-fall-2018.pdf>).

Operational risk is elevated as banks respond to an evolving and increasingly complex operating environment. Cybersecurity continues to be a key operational risk, especially in light of the continually evolving threat landscape. Innovation in the banking industry emphasizes the need for banks to effectively manage operational changes as technology advances. Banks increasingly rely on third-party service providers to deliver key services, which presents distinct risks. Further, there are examples of core activities for the industry that are concentrated in a handful of third-party service providers. Additional factors contributing to elevated operational risk are the expected increase in mergers and acquisitions activity as well as rising trends in fraud and attempted fraud. Operational disruptions underscore the need for effective change management when implementing new products, services, and emerging technologies.

Compliance risk remains elevated as banks seek to manage money-laundering risks in a complex, dynamic operating and regulatory environment. In addition, the adoption of new technologies and other innovations and implementing changes to policies and procedures to comply with amended consumer protection requirements are challenging banks' compliance risk management processes.

Interest rate risk poses potential challenges given the current rising rate environment, competitive pressures, changes in technology, and untested depositor behavior. All these factors make it difficult to forecast liability costs. The advances in technology, such as online banking, mobile banking, and the acceleration of fintech, have made it easier to move money, potentially causing depositors to switch financial institutions or switch to nonbank competitors. Banks may experience unexpected shifts in liability mix or increasing costs that could reduce earnings or increase liquidity risk.

A specific credit risk that warrants attention involves the leveraged loan market. The Federal banking agencies have increasingly observed transactions that include elevated leverage, including fewer and less stringent protective covenants, more liberal repayment terms, and incremental debt provisions that allow for increased debt that may inhibit deleveraging capacity and dilute repayment to senior secured creditors. We continue to monitor how this combination of risks is evolving and to assess the adequacy of bank risk management and controls. Through our supervisory activities, we have seen that the leveraged lending guidance issued by the Federal banking agencies has contributed to banks having a more balanced risk management approach in this area. We will also continue to monitor the potential impact of these risks in the aggregate on the broader leveraged lending market and banking system.

Bank holdings of leveraged loans are not our only significant concern. Although supervised banks originate a significant portion of leveraged loans, nonbank entities have substantially increased their purchases of leveraged loans. Most of the problem loan leveraged loan exposure is held outside of the regulated banking system where there is much less transparency. While purchases of leveraged loan participations by nonbank entities allows the risks to be shared more broadly, the nonbank entities may not be required to hold the levels of capital and liquidity that supervised financial institutions must hold to protect them in an economic downturn or during a period of market disruption.

As is our practice, the OCC will continue to assess leveraged lending risk regularly through the supervisory process. Recent supervisory assessments show that OCC regulated banks have satisfactory risk management around leveraged lending. Leveraged loans can also present indirect risk and we will continue to assess OCC regulated banks' management of risks from lending to leveraged loan investors, lending to and investing in collateralized loan obligations, and from other borrowers that may have critical suppliers or vendors that are highly leveraged. In addition, although less transparent to the Federal banking agencies, we will continue to monitor nonbank leveraged lending activity and its potential impacts to the extent possible.

The Federal banking agencies will continue to perform semiannual interagency shared national credit (SNC) reviews. These reviews are risk-based and focus on loans shared by at least three regulated entities with a committed value of \$100 million or greater. For some time, SNC reviews have been heavily weighted toward leveraged loans, and results are used by examiners when assessing credit quality and risk management practices at individual banks that originate or purchase portions of those loans. The Federal banking agencies issue a joint, annual public statement to summarize SNC findings.

OCC Priorities and Objectives

The Federal banking system should be an engine to promote economic growth and prosperity for consumers, businesses, and communities across the country. My

priorities address tailoring regulatory requirements to remove unnecessary burden, and increasing bank lending and investment in the businesses and communities the banks serve. They include modernizing the Community Reinvestment Act (CRA) to increase lending, investment, and financial education to where it is needed most; encouraging banks to meet short-term small-dollar credit needs to provide consumers with additional safe, affordable credit choices; completing the implementation of the Economic Growth, Regulatory Relief, and Consumer Protection Act (Economic Growth Act) to reduce regulatory burden for small and mid-size institutions while safeguarding the financial system and protecting consumers; and supporting responsible innovation to provide more choices to consumers and businesses. My priorities also include improving the efficiency and effectiveness of Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) regulations, supervision, and examination, while continuing to support law enforcement, protect the financial system from those who seek to exploit it for illicit and illegal purposes, and reduce the burden of BSA/AML compliance; and working with the other Federal agencies to implement the incentive compensation provisions of section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

Modernization of the Community Reinvestment Act

During the four decades since it became law, the CRA has proven to be a powerful tool for community revitalization and has encouraged trillions of dollars in lending, investment and other banking activities in low- and moderate-income communities across our Nation. However, the regulatory approach to implementing CRA has become too complex, outdated, cumbersome, and subjective. Stakeholders from all perspectives have called for modernizing the current regulatory framework. Complaints with the current framework include significant administrative burden, lack of consideration for investments in areas with needs beyond a bank's assessment area, and failure to adapt the framework to advances in banking such as interstate branching and digitization of services. Others have complained about the limited opportunity for bank activities to qualify for CRA consideration. Bankers and community groups alike criticize the length of time between the issuance of CRA performance evaluations, the unwieldy length of performance evaluation reports, and the lack of transparency and clarity.

We have an opportunity to modernize the regulatory framework around CRA to better serve its original purpose and encourage more investment and banking activity supporting the people and communities needing it most. The OCC took the first step by issuing an advance notice of proposed rulemaking (ANPR) in August 2018. The ANPR did not make any regulatory proposals. Instead, it presented 31 questions on a variety of issues and options that could reform the CRA framework, including one that asked stakeholders to tell us what issues we may have missed. The OCC solicited input from all stakeholders regarding any and all ideas and opinions about how regulators may strengthen and enhance the CRA framework.

Certain stakeholders, however, have made inaccurate claims about the purpose of the ANPR, mischaracterizing it as an effort to limit public input. To the contrary, the OCC met with over 1,000 people during outreach to discuss CRA modernization. In addition, we received approximately 1,500 letters with varied opinions and insights that, absent the ANPR, would not have been available to regulators. The OCC has shared all these comments with the other Federal banking regulators, and we are working with them to jointly develop and issue a proposed rule later this year.

Our goals for strengthening CRA regulations include: 1) clarifying what counts for CRA consideration; 2) updating where CRA activity counts; 3) creating an objective means to count it; and 4) making reporting timelier and more transparent. The agencies are actively engaged in working together toward these broad goals, which will make CRA regulations work more effectively and efficiently for everyone. The proposal will be published for notice and comment, allowing the public another opportunity to provide input on the modernization of CRA regulations.

Small-dollar lending

Millions of Americans rely upon short-term small-dollar credit to make ends meet. Consumers need safe, affordable choices, and banks should be part of that solution. Banks are well-suited to offer affordable short-term small-dollar installment lending options that can help consumers find a path to more mainstream financial services without trapping them in cycles of debt.

To facilitate banks offering responsible short-term small-dollar installment loans to help meet the credit needs of their customers, the OCC published a bulletin in May 2018 setting out three core principles for these products:

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

The agency's bulletin also highlighted reasonable policies and practices specific to short-term small-dollar installment lending. While banks initially may not have had the infrastructure to engage in such lending, banks are purchasing loans and loan pools from online lenders, creating more liquidity for these lenders, and exploring relationships with lenders offering small dollar loans that align with the sound lending principles discussed in the bulletin.

In addition, over the course of the past year, the OCC has had discussions with several banks that are considering new small-dollar products. The CFPB's proposal to amend its Payday Lending Rule, issued in January 2019, could accelerate interest in small-dollar products. However, as commenters noted in response to the Federal Deposit Insurance Corporation's (FDIC) November 2018 request for information, regulatory uncertainty remains. The Federal banking agencies are exploring principles-based options to address this uncertainty and to encourage banks to deliver safe, fair, and less expensive short-term credit products that support the long-term financial health of their customers.

Implementation of the Economic Growth Act

The strength and vitality of the Nation's financial system depend, in large part, on the ability of financial institutions, particularly community and mid-size banks, to operate efficiently, effectively, and without unnecessary regulatory burden. The Economic Growth Act provided a bipartisan framework to significantly reduce regulatory burden for small- and mid-size institutions while safeguarding the financial system and protecting consumers. I am happy to report that we have made significant progress implementing the Act.

Examination cycle. In December 2018, the agencies jointly issued rules finalizing the August 2018 interim final rule changes to the agencies' examination cycles. Section 210 of the Act expanded eligibility for an 18-month examination cycle, making the extended examination cycle available to a larger number of qualifying 1- and 2-rated institutions. This change, together with parallel changes to the onsite examination cycle for U.S. branches and agencies of foreign banks, allows the agencies to better focus their supervisory resources on financial institutions that are more likely to present capital, managerial, or other supervisory issues and thus enhance safety and soundness collectively for all financial institutions.

Thrift charter flexibility. In September 2018, the OCC issued a notice of proposed rulemaking to provide greater flexibility to Federal savings associations by implementing a new section of the Home Owners' Loan Act added by section 206 of the Act. This proposal would establish streamlined standards and procedures under which a Federal savings association with total consolidated assets of \$20 billion or less, as reported to the Comptroller as of December 31, 2017, may elect to operate with the same rights and privileges and be subject to the same duties and restrictions as a similarly located national bank but would retain its charter and existing governance framework. The comment period closed in late 2018, and the OCC hopes to issue a final rule in the near term.

Short-form Call Report. Section 205 of the Act provides for reduced reporting requirements on Call Reports for the first and third quarters for institutions with less than \$5 billion in total consolidated assets. This change expands the number of community institutions that can benefit from the reduced burden associated with the short form Call Report, freeing up employees and other resources to serve customers and the operational needs of the institutions. The agencies published a notice of proposed rulemaking in November 2018, and the comment period closed earlier this year. The agencies are working toward issuing a final rule shortly.

Appraisals of Residential Real Property. Section 103 of the Act provides a tailored exemption from the appraisal requirements for certain residential mortgage loans with a transaction value of less than \$400,000 that are located in rural areas. The agencies received comments on the threshold for appraisals for residential real estate transactions during both the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) regulatory review process and the rulemaking process to raise the threshold for commercial real estate transactions.

After considering all of the comments and further analysis by the agencies, the agencies issued a notice of proposed rulemaking in December 2018 to increase the

appraisal threshold for residential real estate transactions in order to reduce regulatory burden, particularly in rural areas, in a manner that is safe and sound and consistent with consumer protection. The comment period closed in February. The agencies are reviewing the more than 500 comments received, with the goal of issuing a final rule later this year.

Volcker Rule. Sections 203 and 204 of the Act make changes to the statutory provisions underlying the Volcker Rule, including reducing the number of institutions subject to its requirements. These changes provide regulatory relief to institutions that do not pose the types of risks the Volcker Rule was intended to limit.² The agencies published a notice of proposed rulemaking in February 2019 to exclude community banks with \$10 billion or less in total consolidated assets and total trading assets and liabilities of 5 percent or less of total consolidated assets from the restrictions of the Volcker Rule and to ease Volcker Rule restrictions on common names between banks and sponsored funds, consistent with the Act. The comment period closed in March 2019, and the agencies are working toward a final rule later this year.

Community Bank Leverage Ratio. The agencies issued a notice of proposed rulemaking in late 2018 to implement section 201 of the Act, which addresses the complex and burdensome process—particularly for highly capitalized community banks—of calculating and reporting regulatory capital. The proposal provides a simplified measure of capital adequacy for qualifying community banking organizations. Those qualifying community banking organizations that elect to use and comply with the community bank leverage ratio (CBLR) framework and that maintain a CBLR greater than 9 percent would be considered to have met the capital requirements for the “well-capitalized” capital category under the agencies’ prompt corrective action (PCA) frameworks and would no longer be subject to the generally applicable capital rule.

Based on our analysis, setting the threshold at 9 percent in combination with the other qualifying criteria would allow most community banks to qualify for the CBLR framework, generally maintain the same amount of capital in the banking system, and exclude banks with higher risk profiles unsuitable for a noncomplex reporting regime. With the 9 percent threshold and other qualifying criteria, approximately 84 percent of insured banks with total consolidated assets under \$10 billion could take advantage of the CBLR framework.

As the agencies made clear in the proposal, electing to use the CBLR framework would be optional. Under the proposal, banks have the option to move in and out of the CBLR framework at any time without restrictions. However, to opt back into the CBLR framework, a bank must meet all the qualifying criteria and have a CBLR greater than 9 percent.

The proposal also includes an additional PCA framework. The agencies proposed the additional framework to allow banks the option to remain in the CBLR framework even if they no longer met the required 9 percent threshold. Doing so would give banks an additional option; they could continue to calculate a single leverage ratio, rather than being required to use the generally applicable framework, including all risk-based capital calculations, which potentially could be costly for banks to re-implement.

The comment period for the proposal closed in April. The agencies are reviewing the comments received on the proposal, with the goal of issuing a final rule by the end of this year.

Supplementary Leverage Ratio for Custody Banks. In April, the agencies issued a proposal to implement section 402 of the Act. Section 402 directs the agencies to amend the supplementary leverage ratio (SLR) to exclude qualifying deposits at a central bank for banking organizations that are predominantly engaged in custody, safekeeping, and asset servicing activities.

High-Quality Liquid Assets. Section 403 of the Act requires the Federal banking agencies to amend their Liquidity Coverage Ratio (LCR) rules to treat qualifying liquid and readily marketable, investment grade municipal securities as level 2B liquid assets. The agencies issued an interim final rule to implement section 403 in August 2018 and expect to finalize the rule this summer.

High Volatility Commercial Real Estate. In September 2018, the agencies published a notice of proposed rulemaking to implement section 214 of the Act, which limits the types of acquisition, development, and construction loans that may be considered high volatility commercial real estate exposures and subject to heightened capital requirements. The comment period closed in late 2018. The agencies are working toward a final rule early this summer.

²The agencies explained in a July 2018 interagency statement that they will not enforce the Volcker Rule in a manner inconsistent with the Act.

Stress Testing. In February, the agencies published a notice of proposed rule-making to implement changes to certain aspects of “company-run” stress-testing requirements, as required by section 401 of the Act. The Act raises the minimum asset threshold for banks covered by the company-run stress-testing requirement from \$10 billion to \$250 billion in total consolidated assets; revises the requirement for banks to conduct stress tests periodically instead of annually; and reduces the number of required stress-test scenarios from three to two. The agencies are working toward issuing a final rule this summer.

Tailoring Capital and Liquidity Requirements. The agencies recently issued proposed rules to establish risk-based categories for determining applicability of requirements under the regulatory capital rules, the LCR rules, and the proposed net stable funding ratio rules for large domestic U.S. and foreign banking organizations. These proposals build upon the agencies’ existing practices of tailoring capital and liquidity requirements based on the size, complexity, and overall risk profile of banking organizations. The proposals are consistent with section 401 of the Economic Growth Act that raises the minimum asset threshold for application of enhanced prudential standards from \$50 billion to \$250 billion in total consolidated assets. Importantly, regulatory capital and liquidity requirements for U.S. global systemically important banks would not change under the tailoring proposal.

Supporting Responsible Innovation

In July 2018, the OCC announced its decision to consider applications for special purpose national bank charters from qualifying fintech companies engaged in the business of banking. This decision is consistent with bipartisan government efforts at Federal and State levels to promote economic opportunity and support innovation and will help to provide more choices to consumers and businesses. Companies that provide banking services in innovative ways deserve the opportunity to pursue that business on a national scale as a federally chartered, regulated bank. We continue to have conversations with several such companies about the special purpose national bank charter.

A fintech company that receives a national bank charter will be subject to the same high standards of safety and soundness and fairness that all federally chartered banks must meet. As it does for all banks under its supervision, the OCC would tailor these standards based on the bank’s size, complexity, and risk profile, consistent with applicable law. In addition, a fintech company with a national bank charter will be supervised like similarly situated national banks, including with respect to capital, liquidity, and risk management requirements.

The OCC also expects a fintech company that receives a national bank charter to demonstrate a commitment to financial inclusion. The nature of that commitment will depend on the company’s business model and the types of products, services, and activities it plans to provide. By applying a standard similar to that of the CRA for depository institutions, the financial inclusion commitment will help ensure that special purpose national bank charters are held to the same agency expectations of fair access to financial services and fair treatment of customers.

A special purpose national bank charter is only one option for innovative companies engaged in the business of banking. Companies may also pursue a full-service national bank charter, State charter or license where available, or partner with banks and other financial service companies. The OCC Office of Innovation is a resource available to fintechs to help them understand the opportunities available to them.

Bank Secrecy Act and Anti-Money Laundering

The BSA and AML laws and regulations exist to protect our financial system from criminals who would exploit that system for their own illegal purposes or use that system to finance terrorism. While regulators and the industry share a commitment to fighting money laundering and other illegal activities, the process for complying with current BSA/AML laws and regulations has become inefficient and costly. It is critical that the BSA/AML regime be updated and enhanced to address today’s threats and better use the capabilities of modern technology to protect the financial system from illicit activity.

The OCC has taken a leadership role in coordinating discussions with the FDIC, Board of Governors of the Federal Reserve System, National Credit Union Administration, Treasury’s Office of Financial Intelligence, and FinCEN to identify and implement ways to improve the efficiency and effectiveness of BSA/AML regulations, supervision, and examinations, while continuing to meet the requirements of the statute and regulations, support law enforcement, and reduce BSA/AML compliance burden. In October 2018, these agencies released a joint statement clarifying ways in which community banks with a lower BSA risk profile may be able to increase

efficiency and reduce burden in their BSA/AML compliance programs by sharing BSA resources. The statement describes how these banks can effectively use collaborative arrangements to share human, technology, or other resources related to BSA compliance to reduce costs, increase operational efficiency, and leverage specialized expertise.

More recently, in December 2018, these agencies issued a joint statement encouraging banks to take innovative approaches to meet their BSA/AML compliance obligations. The statement recognizes significant potential for technological innovation to transform BSA/AML compliance. In addition to assisting banks' efforts to control their costs, innovation is increasingly necessary to counter constantly changing threats, as illicit financing methods evolve to exploit vulnerabilities in existing systems. The statement makes clear the agencies are committed to continued engagement with the private sector to modernize and innovate in their BSA/AML compliance programs. The OCC is actively engaged in discussions with banks and other stakeholders regarding ways to explore enhanced technology usage while maintaining the current strong protections for the financial system.

The OCC also has identified areas in which legislative changes could increase the impact and efficiency of BSA/AML regulation and compliance programs. The OCC generally supports legislative changes that would reduce unnecessary industry burden and compliance costs and allow for more effective information sharing related to illicit finance. These include requiring a regular review of BSA/AML regulations to identify those that could be strengthened, refined or to reduce unnecessary burden, and providing safe harbors to promote sharing of information.³

Section 956 of the Dodd-Frank Act

Section 956 of the Dodd-Frank Act generally requires that the OCC, Federal Reserve, and FDIC, along with the National Credit Union Administration, the Federal Housing Finance Agency, the Securities and Exchange Commission, jointly issue regulations or guidelines that prohibit incentive-based payment arrangements that encourage inappropriate risks by certain financial institutions by providing excessive compensation or that could lead to material financial loss, and require those financial institutions to disclose information concerning incentive-based compensation arrangements to the appropriate Federal regulator.

Incentive compensation arrangements can be useful tools in the successful management of financial institutions. However, compensation arrangements can provide executives and employees with incentives to take imprudent risks that are not consistent with the long-term health of the institution. We have initiated discussions with the other agencies to explore principles-based options to implement section 956.

Additional Information

OCC's Diversity Efforts

The fulfillment of the agency's core mission of bank supervision depends on its employment of talented staff with high levels of expertise and experience. The OCC is fully committed to maintaining a competent, highly qualified workforce and recruiting the best, diverse talent available from a variety of sources. The agency is committed to maintaining an inclusive culture and workplace environment with a diversity strategy that focuses on leadership commitment, recruitment, development, retention, work-life balance, and an engaging culture. The OCC has had an agency-wide diversity strategy in place for over 10 years and regularly aligns those diversity strategic goals with the agency's strategic plan.

As of September 30, 2018, the participation rate of females in the OCC's permanent workforce was 45.1 percent, and the participation rate of minorities in the OCC's workforce was 35.1 percent. The participation rates for African Americans and Asian Americans were 17.6 percent and 9.0 percent, respectively, both above the National Civilian Labor Force (NCLF) rate. The participation rate for Hispanic Americans, at 7.3 percent, fell slightly below the NCLF rate; however, fiscal year 2018 hiring rates for Hispanic Americans exceeded the NCLF rate.

The OCC benefits greatly from the input of its seven Employee Network Groups (ENG) that advance special emphasis programs: the Network of Asian Pacific Americans; the Coalition of African American Regulatory Employees; PRIDE (the Gay, Lesbian, Transgender, and Bisexual Employees network group); the Hispanic Organization for Leadership and Advancement; The Women's Network; Generational Crossroads; and the Veterans Employee Network. These ENG's serve as a resource

³For more detail, see Testimony of Grovetta N. Gardineer. U.S. Senate Committee on Banking, Housing, and Urban Affairs. November 29, 2018. <https://occ.gov/news-issuances/congressional-testimony/2018/ct-2018-127-written.pdf>.

for mentoring and engagement, and as a collective voice in communicating workplace concerns and providing input to management around diversity and inclusion programs and activities within the OCC. The groups hold an annual leadership forum with the Comptroller and other key agency stakeholders to align individual group objectives with agency strategic priorities pertaining to recruitment, career development, and retention.

The OCC has a robust recruitment program to attract highly qualified candidates who reflect a cross-section of the national population, particularly for its entry-level assistant national bank examiner positions. The recruitment program features ongoing partnerships with colleges, universities, banking associations, and professional affiliations. These efforts include participating in recruitment activities at Hispanic Serving Institutions, Historically Black Colleges and Universities, as well as outreach to student organizations. The OCC has also recruited on campus at minority-serving institutions and sponsored similar activities at colleges and universities with large female student bodies (60.0 percent or greater). The OCC also participates annually in a wide range of meetings, conferences, and career fairs to develop relationships and gain access to a diverse student applicant pool.

We are particularly pleased that, over the last three fiscal years (2016–2018), the OCC through the Federal Pathways Internship Program has hired 36 students, of whom 41.7 percent were females and 47.2 percent were minorities. We also have hired 35 financial interns, of whom 54.3 percent were females and 31.4 percent were minorities. Over the same timeframe, the agency sponsored 73 interns through its National Diversity Internship Program.⁴

This year we also are partnering with the District of Columbia’s Department of Employment Services to provide paid summer internships to more than 80 rising seniors from DC high schools. The internships will provide these minority students exposure to a professional workplace, career-readiness training, and greater awareness of potential career opportunities in the financial service industry and regulation.

We continue to work toward enhancing the diversity of applicant pools for manager and senior-level manager opportunities by ensuring that diversity and inclusion are foundational components in developing the pipeline for OCC leadership roles. In support of this work, executive management reviews staffing selections for pipeline positions on a weekly basis; monitors the diversity of participants in career development programs, activities and opportunities; and supports unconscious bias training for all employees.

The OCC is equally committed to the inclusion of minorities, women, and minority- and women-owned businesses at all levels of the agency’s business activities. Payments to minority- or women-owned businesses represented 43.2 percent of the OCC’s total contractor payments in fiscal year 2018, an 11 percent increase since 2014.

Section 308 of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) describes goals for preserving and promoting minority depository institutions. The OCC takes numerous actions to achieve these goals. For example, OCC subject matter experts provided technical assistance to minority depository institutions (MDI) on various topics, including cybersecurity, legal, accounting, compliance, and safety and soundness issues. The OCC annually hosts meetings of its Minority Depository Institutions Advisory Committee to assess the current condition of minority depository institutions, what regulatory changes or other steps the OCC may be able to take to fulfill the mandate of section 308, and other issues of concern to OCC-supervised minority depository institutions. The OCC holds bank director workshops throughout the United States that address risk governance, credit risk, compliance risk, and other important banking issues; it encourages MDI directors to attend these workshops, waiving participation fees as an incentive. The OCC’s District Community Affairs Officers consult with MDIs on community development, the CRA, and related topics, and the OCC’s External Outreach and Minority Affairs staff consult with MDIs on community development financial institution certification and advise them about other Federal resources that support their missions.

Review of Proposed Mergers

The OCC charters, regulates, and supervises national banks and Federal savings associations (FSA). As such, we do not have a role in evaluating the proposed

⁴The OCC’s National Diversity Internship Program partners with the following organizations that focus on developing opportunities for minorities and women in the industry: the Hispanic Association of Colleges and Universities; INROADS; Proxtronics Dosimetry; Wire2Net; Minority Access; and The Washington Center.

merger of BB&T and SunTrust, neither of which are a national bank or Federal savings association.

When evaluating a proposed business combination transaction involving a national bank or Federal savings association—mergers, consolidations, and certain purchase and assumption transactions—the OCC evaluates the capital level of the resulting national bank or FSA; conformity of the transaction to applicable law and regulation; the transaction’s purpose and impact on the safety and soundness of the national bank or FSA; and the effect of the transaction on the national bank’s or FSA’s shareholders (or members, for a mutual savings association), depositors, other creditors, and customers.

In addition, when evaluating a proposed business combination under the Bank Merger Act, the OCC also considers the effect of a proposed business combination on competition; the financial and managerial resources and future prospects of the existing or proposed institutions; the probable effects of the business combination on the convenience and needs of the community served; the effectiveness of any insured depository institution involved in the transaction in combating money laundering activities; the risk to the stability of the U.S. banking and financial system; the statutory deposit concentration limit⁵ for certain interstate transactions; the statutory total liabilities concentration limit⁶ for certain combinations involving large financial firms; and the performance of the applicant and the other depository institutions involved in the business combination in helping to meet the credit needs of the relevant communities, including low- and moderate-income neighborhoods, consistent with safe and sound banking practices, in accordance with 12 U.S.C. 2903(a)(2).

Enforcement Actions

The OCC uses enforcement actions against banks as an extension of our supervisory resources to require a bank’s board of directors and management to take timely actions to correct a bank’s deficient practices or violations (collectively, deficiencies). Enforcement actions against banks can be either formal or informal. Informal bank enforcement actions include commitment letters, memorandums of understanding, and notices of deficiency issued under 12 CFR 30. When a bank’s deficiencies are severe, uncorrected, repeat, unsafe or unsound, or negatively affect the bank’s condition, the OCC may use formal bank enforcement actions. Formal bank enforcement actions typically are published or made available to the public and include consent orders, formal agreements, Gramm-Leach-Bliley Act (GLBA) agreements pursuant to 12 CFR 5.39, and civil money penalties. Except for GLBA agreements and formal agreements, formal bank enforcement actions are enforceable through the Federal court system.

When determining the appropriate response to a bank’s deficiencies, OCC exercises judgment based on the totality of the conduct and a range of circumstances. Examiners consider numerous factors including the bank’s condition as reflected in its composite and component ratings; the bank’s risk profile; the nature, extent, and severity of the bank’s deficiencies; the extent of any unsafe or unsound practices; the board and management’s ability and willingness to correct deficiencies within an appropriate timeframe; and potential adverse impact to bank customers, the Deposit Insurance Fund, or the public.

Notwithstanding a bank’s composite rating, the bank’s financial condition, or the board and management’s ability or willingness, the OCC has a presumption in favor of a formal bank enforcement action when the bank exhibits significant deficiencies in its risk management systems, including policies, processes, and control systems; there are systemic or significant violations of laws or regulations; or the board and management have disregarded, refused, or otherwise failed to correct previously identified deficiencies.

While the OCC uses our enforcement authority when warranted to ensure that a bank is accountable to remedying identified problems, bank executives and board members are ultimately accountable for the safe, sound, and compliant operation of their banks, as well as ensuring corrective actions when necessary. When assessing a bank’s progress toward meeting our regulatory expectations set forth in an enforcement action, the OCC may assess civil money penalties or take other additional supervisory or enforcement action if the bank is not making sufficient and sustainable progress to remediate deficiencies. Such actions could include issuing an order that imposes business restrictions or requires the bank to make changes to its senior executive officers or members of the board of directors.

⁵ See 12 U.S.C. 1828(c)(13).

⁶ See 12 U.S.C. 1852.

Conclusion

Thank you for the opportunity to testify before the Committee today. While the condition of the Federal banking system is strong, we continue to be vigilant in monitoring economic conditions, bank activities and emerging risks. We also are advancing several priorities to ensure that banks appropriately invest to the communities that they serve and that our regulatory requirements are properly calibrated. We welcome Congress' support and interest in these activities.

PREPARED STATEMENT OF RANDAL K. QUARLES

VICE CHAIR FOR SUPERVISION, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

MAY 15, 2019

Chairman Crapo, Ranking Member Brown, Members of the Committee, thank you for your time and for your invitation to testify today on the Federal Reserve's regulation and supervision of the financial system.

My visit comes 10 years, almost to the day, after the Federal Reserve released the results of its first supervisory stress tests.¹ That exercise was an invention of both urgency and necessity and a tool to move the country's largest financial institutions toward safety and stability. Many innovations from that period are now regular elements of the Federal Reserve's supervisory and regulatory work. These innovations have helped strengthen firms that were damaged by the crisis; given supervisors and the public a clearer view of risks in the financial system; and provided a solid foundation for the Nation's economic recovery. Economic and market conditions have afforded us the time and opportunity to refine and improve the post-crisis regulatory framework. Now—when the financial system and economy are in good health—is the time to consolidate the insights we have gained and to better the framework we have built.

Since my last appearance before this Committee, the Federal Reserve has taken several steps to improve the framework, by integrating post-crisis innovations more fully into our supervisory processes; directing our attention and resources to the places and institutions that merit them most; and making our regulatory standards as simple, efficient, and transparent as possible. Today, I will briefly review those steps; outline the Supervision and Regulation Report that accompanies my testimony;² and discuss our other engagement on community, consumer, and financial stability issues, both at home and abroad.

Regulatory Tailoring and Supervision and Regulation Report

Almost a year ago, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act (ERRCPA).³ A cornerstone of this legislation was a directive to the regulatory agencies to tailor oversight of institutions to ensure that our regulations match the character of the firms we regulate, with specific congressional direction for firms between \$100 billion and \$250 billion in total assets. The Board's Supervision and Regulation Report centers on our recent efforts to accomplish this goal.

The core of these efforts are two sets of regulatory proposals, which better align the application of our prudential standards to the risk profiles of different banking firms.⁴ Both sets derive from careful analysis and have benefited from collaboration with the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC). The proposals share a common goal: to focus our energy and attention on both the institutions that pose the greatest risks to finan-

¹ Board of Governors of the Federal Reserve System, "Federal Reserve, OCC, and FDIC release results of the Supervisory Capital Assessment Program," news release, May 7, 2009, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20090507a.htm>.

² Board of Governors of the Federal Reserve System, "Supervision and Regulation Report," May 10, 2019, <https://www.federalreserve.gov/publications/files/201905-supervision-and-regulation-report.pdf>.

³ ERRCPA, Pub. L. No. 115–174, 132 Stat. 1296 (2018).

⁴ Board of Governors of the Federal Reserve System, "Federal Reserve Board invites public comment on framework that would more closely match regulations for large banking organizations with their risk profiles," news release, October 31, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181031a.htm>; Board of Governors of the Federal Reserve System, "Federal Reserve Board invites public comment on regulatory framework that would more closely match rules for foreign banks with the risks they pose to U.S. financial system," news release, April 8, 2019, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190408a.htm>.

cial stability and the activities that are most likely to challenge safety and soundness.

The most recent proposal addresses prudential requirements for the U.S. operations of foreign banks. Like last year's tailoring proposal for domestic institutions, it categorizes firms according to their size, business model, and risk profile. Certain aspects differ from the domestic proposal, however, to reflect the unique characteristics of foreign banks operating in the United States, while preserving faithfulness to the principles of national treatment and competitive equity. The proposal also asks for input on a number of important issues, and I look forward to reviewing the comments we receive.

These proposals are only one aspect of our efforts to implement last year's legislation. We also have been providing targeted regulatory relief, especially for community banks and other less complex organizations.

- We proposed a new interagency Community Bank Leverage Ratio to give community banking organizations a more straightforward approach to satisfying their capital requirements. State-bank supervisors and others have provided thoughtful comments on our work, which we are taking into account.⁵
- We expanded community banking organizations' eligibility for both longer examination cycles and exemptions from holding company capital requirements, and we have proposed more limited regulatory reporting requirements for community banks.⁶
- We provided smaller regional bank holding companies immediate relief from annual holding company assessments and fees, stress-testing requirements, and other prudential measures designed for larger institutions.⁷
- We adjusted our regulatory capital treatment of high-volatility commercial real estate exposures and our regulatory liquidity treatment of municipal securities; exempted community banking organizations from the Volcker Rule; and clarified how collaboration among smaller institutions can help them address their BSA/AML risks.⁸

⁵Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, "Agencies propose community bank leverage ratio for qualifying community banking organizations," news release, November 21, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181121c.htm>.

⁶Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, "Agencies issue final rules expanding examination cycles for qualifying small banks and U.S. branches and agencies of foreign banks," news release, December 21, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181221c.htm>; Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, "Agencies issue proposal to streamline regulatory reporting for qualifying small institutions," news release, November 7, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181107a.htm>; Board of Governors of the Federal Reserve System, "Federal Reserve Board issues interim final rule expanding the applicability of the Board's small bank holding company policy statement," news release, August 28, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20180828a.htm>. While holding companies that meet the conditions of the small bank holding company policy statement are excluded from consolidated capital requirements, their depository institutions continue to be subject to minimum capital requirements.

⁷Board of Governors of the Federal Reserve System, "Statement regarding the impact of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA)," July 6, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20180706b1.pdf>. The Board also participated in a recent proposal that would modify resolution planning requirements. See Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation, "Agencies invite comment on modifications to resolution plan requirements; proposal keeps existing requirements for largest firms and reduces requirements for firms with less risk," news release, April 16, 2019, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190416a.htm>.

⁸Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, "Agencies propose rule regarding the treatment of high volatility commercial real estate," news release, September 18, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20180918a.htm>; Board of Governors of the Federal Reserve System, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and Securities and Exchange Commission, "Agencies invite comment on a proposal to exclude community banks from the Volcker rule," news release, December 21, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181221d.htm>; Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Financial Crimes Enforcement Network, National Credit Union Administration, and Office of the Comptroller of the Currency, "Federal agencies issue a joint statement on banks and credit unions sharing resources to improve efficiency and effectiveness

Continued

Many of the regulatory developments implement statutory changes, but they also align with a long-held Federal Reserve policy of directing more resources to the most complex institutions and the most pressing risks. To that end, I am aware that policy changes in Washington can only succeed if they are accompanied by consistent implementation in the field. Deliberate, thoughtful supervision is essential, not only to translate regulatory standards into practice, but also to monitor whether rules are working as intended. I have been visiting supervisory and examination staff across the Federal Reserve System to discuss these issues and to help ensure that the activities of field examiners and policymakers are fully aligned. I plan to continue doing so in the months ahead.

The report accompanying my testimony provides more details on these recent regulatory steps, as well as on the overall condition of the banking system. On that front, I am happy to share positive news. Banking institutions of all shapes and sizes continue to show greater loan volumes and fewer delinquencies. Capital levels remain high, and nonperforming loan ratios remain well below their 5-year averages. The banking sector often reflects the health of the overall economy, and we continue to monitor emerging risks across the system to ensure institutions of all sizes can maintain their safety and soundness throughout the business cycle.

Regulatory and Supervisory Activities

Supervisory stress testing has become a potent tool for understanding these emerging risks. Its original purpose, however, was much narrower. Even after months of extraordinary public support, the financial system a decade ago remained exceedingly fragile. To relieve strain on the banking system and recapitalize the sector, markets needed credible information, which was then in short supply.⁹ The first crisis-era stress test provided such insight when it was available from few other sources; it was an analysis of last resort, which marked a turning point in the crisis. As conditions changed, the role of stress testing changed as well. Today, the Comprehensive Capital Analysis and Review (CCAR) provides a forward-looking measurement of bank capital, a view of risks across the sector, and a broader understanding of the health of the financial system. As the environment in which we conduct our stress tests evolves, our stress-testing processes should evolve commensurately.

In the past half year, the Board took steps to consolidate the role that stress testing plays in our work. Following the directive from the EGRRCPA, we began to transition less complex CCAR firms to an extended testing cycle, reflecting the lower risks they pose relative to their larger, more complex peers.¹⁰ We published new details of our methodology and models, improving public understanding of the program and maintaining the integrity of its results.¹¹ We announced a new stress-testing conference, inviting the broad participation, insight, and challenge that are essential for effectiveness.¹² And, while maintaining a rigorous evaluation of capital planning, we committed to addressing qualitative deficiencies at most firms through

of Bank Secrecy Act compliance,” news release, October 3, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181003a.htm>; see also Board of Governors of the Federal Reserve System, “Federal Reserve Board issues joint statement encouraging depository institutions to explore innovative approaches to meet BSA/anti-money laundering compliance obligations and to further strengthen the financial system against illicit financial activity,” news release, December 3, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181203a.htm>.

⁹See Ben S. Bernanke, “Stress Testing Banks: What Have We Learned?” (speech at the “Maintaining Financial Stability: Holding a Tiger by the Tail” financial markets conference sponsored by the Federal Reserve Bank of Atlanta, Stone Mountain, GA, April 8, 2013), <https://www.federalreserve.gov/newsevents/speech/bernanke20130408a.htm>.

¹⁰Board of Governors of the Federal Reserve System, “Federal Reserve Board releases scenarios for 2019 Comprehensive Capital Analysis and Review (CCAR) and Dodd-Frank Act stress-test exercises,” news release, February 5, 2019, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190205b.htm>.

¹¹Board of Governors of the Federal Reserve System, “Federal Reserve Board finalizes set of changes that will increase the transparency of its stress-testing program for Nation’s largest and most complex banks,” news release, February 5, 2019, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190205a.htm>; Board of Governors of the Federal Reserve System, “Federal Reserve Board releases document providing additional information on its stress-testing program,” news release, March 28, 2019, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190328a.htm>.

¹²See Randal K. Quarles, “Inviting Participation: The Public’s Role in Stress Testing’s Next Chapter” (speech at the Council for Economic Education, New York, NY, February 6, 2019), <https://www.federalreserve.gov/newsevents/speech/quarles20190206a.htm>.

supervisory ratings and enforcement actions, rather than through a stand-alone qualitative objection.¹³

This core challenge—of keeping our supervisory processes strong, while adapting them to evolving circumstances—is not unique to stress testing. The Board, OCC, and FDIC face a similar task involving the modernization of rules implementing the Community Reinvestment Act (CRA). The value of this statute, which affirms the obligation of banks to meet the credit needs of their communities, is clear. To meet the core objective of the statute, our CRA regulatory framework and supervisory processes must evolve, adjusting to a financial sector being reshaped by technology, consolidation, and other forces. This year, we at the Fed have organized dozens of outreach meetings across the country and hosted a research symposium on this subject, in support of an interagency effort that includes the OCC's issuance of an Advance Notice of Proposed Rulemaking. We intend this effort to ensure that the CRA continues to serve low- and moderate-income communities effectively.¹⁴

Other recent steps support our supervisory and regulatory framework by making it simpler and more transparent. A new ratings system for large institutions aligns more closely with the supervisory feedback they receive, offering greater clarity on our expectations and the consequences of falling short.¹⁵ A new proposal would formalize how the Board determines one company's control of another, clarifying and inviting feedback on an important concept that, among other things, determines the perimeter of the Board's regulatory authority.¹⁶ We continue to monitor other new developments in the industry as well, like the impact of new technology on core banking services, third-party due diligence processes, cyber risk, and vendor risk management.

Effective and efficient regulation requires collaboration, both at home and abroad. We continue to engage with our regulatory counterparts overseas, through standard-setting bodies and the Financial Stability Board (FSB), where I recently began a 3-year term as Chair. In establishing the FSB, the G20, led by the United States, recognized that the risks that sparked the financial crisis did not stop at national boundaries. International standards for supervision and regulation help ensure that U.S. firms can play on a level playing field in global competition, foster our own domestic financial stability, and help prevent the fragmentation of financial markets. To secure the full benefits of these standards, the work we undertake with these bodies must also evolve.¹⁷ We must continue to evaluate the post-crisis reforms, address any adverse unintended effects, and identify and manage emerging vulnerabilities.

Conclusion

The strength of our financial system today rests on the insight, patience, and persistence of a decade's work on post-crisis reforms.¹⁸ Those same virtues are essential to preserving that strength in the years to come. We must invite ideas and input into our regulatory and supervisory activities openly, examine them rigorously and objectively, and travel patiently and steadily wherever our analysis leads. A diligent, objective, and independent approach is the only way to remain vigilant toward new risks and ensure that our financial system can continue to address the needs of the U.S. economy. Only by thoughtfully evaluating the reforms we have made,

¹³ Board of Governors of the Federal Reserve System, "Federal Reserve Board announces it will limit the use of the 'qualitative objection' in its Comprehensive Capital Analysis and Review (CCAR) exercise, effective for the 2019 cycle," news release, March 6, 2019, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190306b.htm>.

¹⁴ See Jerome H. Powell, "Brief Remarks" (speech at the Just Economy Conference sponsored by the National Community Reinvestment Coalition, Washington, DC, March 11, 2019), <https://www.federalreserve.gov/newsevents/speech/powell20190311a.htm>; Lael Brainard, "Strengthening the Community Reinvestment Act: What Are We Learning?" (speech at "Research Symposium on the Community Reinvestment Act" hosted by the Federal Reserve Bank of Philadelphia, Philadelphia, PA, February 1, 2019), <https://www.federalreserve.gov/newsevents/speech/brainard20190201a.htm>.

¹⁵ Board of Governors of the Federal Reserve System, "Federal Reserve Board finalizes new supervisory rating system for large financial institutions," news release, November 2, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181102a.htm>.

¹⁶ Board of Governors of the Federal Reserve System, "Federal Reserve Board invites public comment on proposal to simplify and increase the transparency of rules for determining control of a banking organization," news release, April 23, 2019, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190423a.htm>.

¹⁷ See Randal K. Quarles, "Ideas of Order: Charting a Course for the Financial Stability Board" (speech at Bank for International Settlements Special Governors Meeting, Hong Kong, February 10, 2019), <https://www.federalreserve.gov/newsevents/speech/quarles20190210a.htm>.

¹⁸ Board of Governors of the Federal Reserve System, "Federal Reserve, OCC, and FDIC release results of the Supervisory Capital Assessment Program," news release, May 7, 2009, <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20090507a.htm>.

and adjusting our approach when appropriate, can we preserve and improve the efficacy and efficiency of our regulatory framework.

Thank you. I look forward to answering your questions.

PREPARED STATEMENT OF JELENA MCWILLIAMS

CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION

MAY 15, 2019

Chairman Crapo, Ranking Member Brown, and Members of the Committee, thank you for the opportunity to testify today before the Senate Committee on Banking, Housing, and Urban Affairs. As we quickly approach my first anniversary as Chairman, I appreciate the opportunity to share with the Committee how the Federal Deposit Insurance Corporation (FDIC) is working to ensure our regulated institutions are serving their communities and how our regulatory and supervisory efforts are strengthening the agency's oversight of depository institutions of all sizes.

The Financial Needs of Communities

Our Nation's banks are the center of economic activity in their communities. The ability of these banks to provide safe and secure financial products and services to their customers forms the backbone of a strong national economy. The FDIC's oversight of these banks is critical to financial stability and consumer protection. It is incumbent that we exercise this oversight in a manner that recognizes an institution's business model and does not impose unnecessary costs or burdens on legitimate activities.

For these reasons, I have focused much of my efforts at the FDIC on understanding the needs of our communities and the banks that serve them. Our Community Bank Advisory Committee (CBAC), composed of bankers from across the Nation, has been a valuable resource in this regard. By the end of the summer, I will also be nearly halfway through my 50-State listening tour. These meetings with local bankers, State supervisors, consumer groups, and our FDIC employees have been incredibly informative, and have underscored how important it is to get perspectives on our regulatory efforts outside the DC "beltway."

Based on the feedback from our banks and the communities they serve, I have challenged the FDIC to increase our efforts to:

- Promote and preserve the Nation's Minority Depository Institutions (MDIs);
- Encourage community banking, including the establishment of *de novo* banks in communities of all sizes;
- Provide clarity and consistency to financial institutions on their obligations under the Community Reinvestment Act (CRA); and
- Ensure that banks can help low- and moderate-income households—who are often unbanked or underbanked—meet their financial needs safely when confronted with a crisis.

Minority Depository Institutions

Many of the institutions overseen by the FDIC are small banks, including MDIs, whose communities have unique needs for accessing financial services, and our oversight must reflect their critical role in our financial system. The FDIC embraces its statutory responsibility to preserve and promote the health of MDIs. The vitality of these banks is critical given their role in the economic well-being of the minority and traditionally underserved communities many MDIs serve.

The FDIC has a number of initiatives underway to support MDIs:

- In 2018, we appointed a full-time, permanent executive to manage our MDI programs across the FDIC, and have increased the representation of MDIs on the CBAC from one to three institutions, where MDIs now represent one-sixth of CBAC members.
- In June of this year, we will host the first of several roundtables between MDIs and other FDIC-supervised institutions to share expertise and to promote possible collaborative opportunities, including direct investments and deposits in MDIs.
- In June, the FDIC will publish a research study on MDIs and host the 2019 Interagency MDI and Community Development Financial Institution (CDFI) Bank Conference.
- We continue to provide technical assistance to groups seeking to organize new MDIs, and to existing MDIs to support their efforts to acquire failing institu-

tions (including three regional roundtables and two webinars over the last few months, an additional webinar in the future, and a workshop at our June MDI and CDFI conference).

- This fall, we will establish a new MDI subcommittee on the CBAC to both highlight the MDIs' efforts in their communities and to provide a platform for MDIs to exchange best practices.

Beyond these outreach efforts, the FDIC is working on a revised policy statement to underscore our commitment to the health of MDIs. We will continue other technical assistance efforts with these banks, including with groups seeking to create new MDIs.

Streamlining the De Novo Application Process

Banks—particularly community banks—are the economic heartbeat of communities of all sizes across the United States. New financial institutions preserve the vitality of the banking sector, fill important gaps in banking markets, and provide credit services to markets that may be overlooked. The FDIC is open to, and supportive of, deposit insurance filings from all firms, including fintechs. All applications for deposit insurance must be evaluated under the statutory requirements enumerated in Section 6 of the Federal Deposit Insurance Act (FDI Act).

While very few new banks opened in the years following the crisis, the FDIC is seeing renewed interest from organizers. To support the formation of these new institutions, the FDIC is reviewing its processes related to deposit insurance applications. For example, we have revised how we receive and review draft deposit insurance proposals. Under our new procedures, we now provide initial feedback to organizers on draft applications prior to formal submission, which helps them develop more actionable applications. To solicit additional ideas for improvement, we also conducted significant outreach efforts to engage the public, including issuing a Request for Information (RFI) last fall and holding seven roundtable events across the country.

CRA

Last year, the Office of the Comptroller of the Currency (OCC) solicited public feedback on how CRA regulations could be modernized to improve the effectiveness of the law and provide much needed clarity to financial institutions on compliance. The OCC, FDIC, and the Federal Reserve Board (FRB) have reviewed the comment letters received by the OCC and are working together on a proposal for a revised regulatory framework that can help meet these dual goals.

As these efforts proceed, our focus should include: clarifying what activities qualify for CRA consideration; reviewing how we assess lending—including digital lending—by banks outside of their main offices and branches; and ensuring that CRA investments target those most in need in a bank's community.

Small-Dollar Lending

According to a recent study by the FRB, nearly 4 in 10 households cannot cover a \$400 emergency expense with cash.¹ While some banks offer small-dollar lending to help those in need, many banks have chosen not to offer such products because of regulatory uncertainty.² As a result, many families rely on nonbank providers to cover these emergency expenses, or their needs go unmet.

To solicit feedback on these products and consumer needs, the FDIC issued an RFI last year to learn more about small-dollar credit needs and concerns. We have reviewed the more than 60 comments received and plan to revisit our 2013 guidance

¹ Federal Reserve Board Report on the Economic Well-Being of U.S. Households in 2017 (May 2018), available at: <https://www.federalreserve.gov/publications/files/2017-report-economic-well-being-us-households-201805.pdf>.

² The three prudential banking agencies have each taken a separate approach to small-dollar lending at the institutions they regulate. See FDIC FIL-50-2007, Affordable Small-Dollar Loan Guidelines (June 19, 2007), available at: <https://www.fdic.gov/news/news/financial/2007/fil07050.pdf>; OCC Bulletin 2018-14, Core Lending Principles for Short-Term, Small-Dollar, Installment Lending (May 23, 2018), available at: <https://www.occ.gov/news-issuances/bulletins/2018/bulletin-2018-14.html>; Federal Reserve Statement on Deposit Advance Products (April 25, 2013), available at: <https://www.federalreserve.gov/supervisionreg/caletters/caltr1307.htm>.

Additionally, the Consumer Financial Protection Bureau has promulgated a rule that is now being revisited. See CFPB Notice of Proposed Rulemaking to Delay the August 19, 2019 Compliance Date for the Mandatory Underwriting Provisions of the 2017 Final Rule to November 19, 2020 (February 6, 2019), available at: https://files.consumerfinance.gov/f/documents/cfpb_payday_nprm-2019-delay.pdf; and CFPB Notice of Proposed Rulemaking to Rescind Certain Provisions of its 2017 Final Rule Governing Payday, Vehicle Title, and Certain High-Cost Installment Loans (February 6, 2019), available at: https://files.consumerfinance.gov/f/documents/cfpb_payday_nprm-2019-reconsideration.pdf.

to ensure that it does not impose an impediment to banks considering the extension of responsible small-dollar credit.

Appraisal Thresholds

Last year, the FDIC and our partner agencies finalized a proposal to raise the appraisal threshold for federally related commercial real estate transactions from \$250,000—where it was set in 1994—to \$500,000. Additionally, the agencies proposed raising the threshold for federally related residential real estate transactions from \$250,000—also set in 1994—to \$400,000. These proposed changes balance current market realities and price appreciation, including needs in rural communities where access to appraisal services can be limited, with the need to ensure the safety and soundness of our institutions. We have received numerous comments on these proposals and are currently working to finalize the rulemaking.

Regulatory Efforts to Strengthen the Financial System

The FDIC strives to implement its regulatory approach to Insured Depository Institutions (IDIs) in a manner that reflects differences in risk profile among industry participants, while achieving our goals for a safe, sound, and stable banking system. To support our regulatory efforts, FDIC examiners conduct bank examinations using a risk-focused examination program, which helps the FDIC identify emerging risks and take supervisory or regulatory actions to help mitigate those risks. Our ability to effectively supervise larger institutions is a particularly critical foundation for our regulatory efforts and to ensure that large and complex financial institutions are resolvable in an orderly manner.

The FDIC is the primary Federal regulator for 3,495 State-chartered institutions that are not members of the Federal Reserve System.³ Of this number, 40 have assets above \$10 billion. We have adopted a comprehensive and uniform supervisory process for oversight of these larger institutions. For institutions where the FDIC is the primary regulator, we generally apply a continuous examination program with dedicated staff conducting ongoing, onsite supervisory examinations and offsite institution monitoring. Staff works closely with other regulators to identify emerging risks across the agencies' portfolio of large institutions, assess the overall risk profile of the institutions, and promote consistency in supervisory approach.

The FDIC's Large Insured Depository Institution (LIDI) Program remains a primary tool for offsite monitoring of large IDIs, with the exception of the most complex IDIs. The LIDI Program provides a comprehensive process to standardize data capture and reporting for large institutions nationwide, allowing for quantitative and qualitative risk analysis. The LIDI Program supports effective large bank supervision by using individual institution information to focus resources on higher risk areas, determine the need for supervisory action, and support insurance assessments and resolution planning.

The FDIC regularly monitors the potential risks at all IDIs, including those for which it is not the primary Federal supervisor. Through close coordination and collaboration with the OCC, FRB, and various State-bank regulators, the FDIC monitors all institutions to ensure the Deposit Insurance Fund (DIF) is not placed at risk, and when necessary, exercises the authority to conduct special (backup) examination activities of IDI's where the FDIC is not the primary regulator.

For the most complex firms (the Global Systemically Important Banks, or G-SIBs), the FDIC has also established a Systemically Important Financial Institution (SIFI) Risk Report that is used to identify key vulnerabilities and assess capital sufficiency.

Appropriately Tailoring Regulatory Efforts

Given the difference in size and complexity at our Nation's financial institutions and the continued evolution of the financial services industry and our economy as a whole, it is vital that the FDIC continuously evaluate the regulatory framework for IDIs.

Congress directed specific action with respect to regulatory tailoring in the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). Beyond EGRRCPA, the FDIC has a responsibility to regularly revisit prior regulations and guidance to ensure that we are appropriately addressing new risks to the system and are not imposing unnecessary regulatory burdens that might impede safe and secure banking activities. In addition, under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the FDIC has a responsibility to review our regulations at least once every 10 years to identify any outdated, unnecessary, or unduly burdensome requirements. To meet the congressional

³ As of December 31, 2018.

mandates of EGRRCPA and EGRPRA and our general regulatory responsibilities, the FDIC has taken numerous actions over the past year to appropriately tailor our regulatory approach to the risk presented by the individual institutions we oversee, while maintaining requisite safety and soundness and consumer protection.

EGRRCPA

Consistent with the statutory mandates in EGRRCPA, the FDIC has undertaken targeted changes to simplify the regulatory regime for community banks and small and mid-size regional banks based on their risk profiles, while maintaining the most robust capital and liquidity standards for our Nation's largest, most systemically important banks. The FDIC has made considerable progress in implementing the requirements of EGRRCPA. For example, the FDIC has issued:

- An interagency proposal to incorporate exemptions from appraisal requirements for certain rural transactions (Section 103);
- A final rule to except a limited amount of reciprocal brokered deposits from being reported in Reports of Condition (Section 202);
- An interagency proposal to allow reduced reporting requirements in the first and third calendar quarters for certain institutions (Section 205);
- An interagency interim final rule to treat certain municipal obligations as high-quality liquid assets for purposes of calculating the liquidity coverage ratio (Section 403);
- Two interagency proposals to tailor capital and liquidity requirements according to risk-based categories, one for domestic and one for foreign banking organizations with total consolidated assets of \$100 billion (Section 401);
- An interagency proposal to amend the supplemental leverage ratio for custodial banking organizations (Section 402); and
- An interagency proposal to revise the definition of a high-volatility commercial real estate exposure (Section 214).

Volcker Rule

Having observed several years of Volcker Rule compliance by FDIC-regulated entities, it has become clear that the rule as originally constructed is extremely complex and too subjective, resulting in uncertainty and unnecessary burden for smaller, less complex institutions.

To address some of these concerns, Congress exempted from the Volcker Rule all banks below \$10 billion in consolidated assets that do not engage in significant trading activity. The five agencies⁴ responsible for implementing the Volcker Rule have issued a notice of proposed rulemaking to fulfill the requirements of Section 203, which we expect to finalize soon.

Notwithstanding the proposed changes in EGRRCPA, the five agencies issued a separate, additional proposal, broadly referred to as Volcker 2.0. This proposal sought to simplify the rule and reduce the amount of subjectivity in its implementation. Benefiting from a review of 151 comment letters, we are working with our partner agencies toward revisions to the Volcker Rule to provide more clarity, certainty, and objectivity to market participants.

Brokered Deposits Advance Notice of Proposed Rulemaking

The FDIC is undertaking a comprehensive review of our long-standing regulatory approach to brokered deposits and the interest rate caps applicable to banks that are less than well capitalized. Since the statutory brokered deposit and rate restrictions applicable to less-than-well-capitalized banks were put in place in 1989 and amended in 1991, the financial services industry has seen significant changes in technology, business models, and products.

In December 2018, our Board approved an Advance Notice of Proposed Rulemaking (ANPR) to seek public comment on all aspects of the FDIC's brokered deposit and interest rate regulations with a comment period that closed on May 7. In particular, we have heard concerns about the current methodology for calculating national rate caps applicable to less-than-well-capitalized banks, and we appreciate the urgency surrounding this issue. The FDIC is expediting the rate cap component of our review with the goal of issuing a proposal for comment and a final rule by the end of the year.

⁴The agencies responsible for implementation of the Volcker Rule include the FDIC, OCC, FRB, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

Community Bank Leverage Ratio

Efforts to comply with Basel III capital standards have imposed substantial compliance costs on community banks. In fact, at the time of the U.S. Basel III rulemakings, the FDIC, OCC, and FRB found that the vast majority of community banks already maintained sufficient capital levels to exceed the new minimum thresholds.⁵ The Basel III standards, which were intended for internationally active banks, are simply too complex and ultimately unnecessary for community banks.

In September 2017, the FDIC took an initial step to streamline the capital regime for small banks by issuing the proposed “capital simplification rule” under EGRPCA.⁶ This proposed rule would modify the treatment of mortgage servicing assets, certain deferred tax assets, and investments in unconsolidated financial institutions, such as Trust Preferred Securities (TruPS), among other provisions. The FDIC will finalize this capital simplification proposal in the next few weeks.

In the meantime, Section 201 of EGRPCA directed the FDIC to provide an optional community bank leverage ratio (CBLR) for qualifying community banks. The FDIC, OCC, and FRB issued a proposal to implement the CBLR in November 2018.⁷

Under the proposed CBLR rule, a qualifying bank with less than \$10 billion in consolidated assets would not have to comply with the existing risk-based capital requirements if the bank meets a simple ratio of tangible equity to total assets. The proposal includes a definition of tangible equity that is designed to be very simple to calculate and includes high-quality, loss-absorbing capital. In order to qualify under the proposal, banks will need to satisfy certain activity-related criteria and calculate a simple leverage ratio. This approach is most appropriate for small banks with traditional business models. Another key feature of the CBLR proposal is that it is optional.

We estimate that over 80 percent of community banks would be eligible for the proposed CBLR based on the proposed calibration and qualifying criteria. This was a key priority in designing the proposal—to ensure that the simple ratio would be available broadly and without too many complex restrictions.

A key burden reducing aspect of the proposal is that the CBLR would require a single page of regulatory reporting, a substantial reduction from the 15 pages currently required.

Since the agencies issued the CBLR proposal, we received numerous helpful comments and are carefully reviewing each of them. For example, we have heard feedback on the CBLR levels proposed as proxies under the Prompt Corrective Action (PCA) framework. These proxies were included in the proposal as an option for institutions that fall below the CBLR to allow them to continue to use the framework. Reverting to Basel III based capital calculations at a time when they should be focused on addressing their declining capital position could be resource intensive and counterproductive for a small bank. We recognize that this has caused some concern and are considering how best to proceed with this feature of the proposal based upon the comments.

Stress Tests

Section 401(a) of EGRPCA raised the minimum consolidated asset threshold for financial company-run stress tests from \$10 billion to \$250 billion. In July 2018, the FDIC, OCC, and FRB gave immediate relief from these requirements to banking organizations with less than \$100 billion in assets. We expect to finalize the proposed rules to implement these statutory changes in the coming months.

The agencies are also considering amendments to the 2012 Stress Testing Guidance that would provide for further tailoring of supervisory expectations. In particular, the agencies are considering raising the asset threshold in the 2012 Stress Testing Guidance to \$100 billion. Under such an approach, banking organizations under \$100 billion in assets would be expected to use appropriate risk management processes to address risks in specific subject matter areas rather than undertake a general, comprehensive stress-testing framework more appropriate for larger firms.

⁵ See OCC and the FRB Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule, 78 FR 198 (October 11, 2013).

⁶ See FDIC Notice of Proposed Rulemaking *Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996*, FIL-45-2017 (September 27, 2017), available at: <https://www.fdic.gov/news/news/financial/2017/fil17045.pdf>.

⁷ See OCC, FRB, and the FDIC Notice of Proposed Rulemaking, *Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations*, 84 FR 3062 (February 8, 2019), available at: <https://www.fdic.gov/news/board/2018/2018-11-20-notice-sum-b-fr.pdf>.

Resolution Planning

The FDIC is tasked with resolving failed banks and, if called upon, large bank holding companies or other SIFIs. To support this mandate and improve their resolvability, the largest bank holding companies are required by law to submit resolution plans outlining how they can fail in an orderly way under the Bankruptcy Code.

Since the resolution planning requirements took effect in 2012, large firms have improved their resolution strategies and governance, refined their estimates of liquidity and capital needs in resolution, and simplified their legal structures. For example, the U.S. G-SIBs have developed a single-point-of-entry (SPOE) resolution strategy that is intended to enable the functioning of critical operations at key subsidiaries, while the parent enters a preplanned bankruptcy proceeding designed to facilitate the recapitalization of key subsidiaries, preserve going concern value, and protect financial stability. These firms have also established clean holding companies and issued long-term debt which can be converted to equity in the event of a failure. These actions help ensure that market participants—not taxpayers—bear the risk of loss.

In addition to the bankruptcy planning requirements for the largest U.S. bank holding companies, the FDIC also reviews resolution plans filed by larger IDIs planning for resolution under the FDI Act (IDI Rule). This work, along with other measures, has improved our readiness for these resolutions.

Based on experience implementing both rules, the FDIC issued two proposals in April to build on progress already made and to make the resolution process more efficient and effective. The proposals reflect my views that resolution planning for the largest institutions is critical, and we can make improvements to the process.

First, the FRB and the FDIC published for public comment a proposal that would modify resolution plan requirements for large bank holding companies. This proposal implements changes to resolution planning requirements under EGRRCPA, and proposes exempting smaller regional banks from the rule. The proposal also seeks to codify a reduction in frequency of submissions, reflecting the current 2-year filing schedule for the largest domestic bank holding companies, and proposes a 3-year filing schedule for other filers. The proposal would also allow firms to submit targeted plans focused on the most material topics identified by the FDIC and FRB, including capital, liquidity, and material changes that have occurred in between full submissions. Still, plans submitted would remain subject to rigorous review by both agencies.

Second, the FDIC published for public comment an ANPR that seeks comment on potential changes to the IDI Rule. Among other issues, the agency is considering whether to revise the threshold for application of the rule and to tier the rule's requirements based on the size, complexity, or other characteristics of an IDI. The agency is also seeking feedback on ways to streamline plan submissions for larger, more complex firms and on whether to replace plan submissions with periodic engagement and capabilities testing for smaller, less complex firms that are subject to the rule.

The Role of Guidance

As a supervisor, our rules and expectations should be clear to those we supervise. A key aspect of effective supervision is providing a level of certainty surrounding compliance with applicable laws and regulations.

Related to this concept, much has been said about the role of guidance in our regulatory and supervisory framework. Under the Administrative Procedures Act, a rule is defined, in part, as “an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy.”⁸

Separately, there is supervisory guidance. Supervisory guidance can be a helpful tool to provide clarity to our regulated institutions and to FDIC supervisory staff on how to operate in a safe and sound manner, be fair to consumers, and comply with applicable laws and regulations. But supervisory guidance documents are not the same as rules, and should not be treated as such.

In September, the FDIC joined several other agencies to issue a statement clarifying to examiners and financial institutions that institutions cannot be criticized for “violations” of guidance, only for violations of law, regulation, or other enforceable conditions. We have taken a number of steps to ensure our examiners understand this, including written instructions, all-hands examiner calls, and in-person training. We also are reviewing our outstanding guidance documents, the role such guidance documents play in the examination process, and our approach to issuing

⁸ U.S.C. § 551(4).

supervisory guidance going forward, including compliance with the Congressional Review Act.

Supervisory Efforts to Ensure Safety, Soundness, and Consumer Protection

As noted, the FDIC is the primary Federal regulator for 3,495 institutions.⁹ The FDIC also has backup supervisory responsibilities under the FDI Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.¹⁰ These supervisory activities (whether as a primary regulator or in conjunction with our partner agencies) are critical to fulfilling our statutory mandate to protect the DIF and to ensure the stability of, and public confidence in, the Nation's financial system.

Supported by our supervision efforts and a strong economy, our Nation's banks are stronger than ever. Over the last 10 years, we have replenished the DIF to \$102.6 billion,¹¹ representing a ratio of 1.36 percent compared to industry estimates of insured deposits. No institutions failed in 2018, and none have failed thus far in 2019. The FDIC also decreased the number of receiverships under management by 66 last year, and has terminated an additional nine receiverships this year, leaving 263 receiverships under management at this time.

Our efforts to investigate bank failures and identify possible violations of law and regulation help hold banks accountable, as well as their officers, directors, and other employees or contractors. During 2018 alone, the FDIC recovered \$116.3 million from professional liability claims and settlements. Recently, the FDIC concluded a historic \$335 million settlement, tying a record for the largest settlement ever by any plaintiff in an accounting malpractice case.¹² Working with the Department of Justice, the FDIC also helped collect \$8.3 million in criminal restitution and forfeiture orders in 2018.

The FDIC also initiates enforcement actions based on unsafe and unsound practices or conditions in institutions, violations of law and final agreements, and breaches of fiduciary duty, dishonesty or willful disregard by institution-affiliated parties. In that regard, the FDIC initiated 100 formal enforcement actions in the last year, which included 23 cease-and-desist actions, 52 actions to remove individuals from the banking industry, and 25 civil money penalties for illegal conduct. More than \$20 million was provided in restitution to consumers affected by improper practices during the year. Taken together, these supervisory and enforcement actions help protect our financial system and the customers that rely on financial institutions for safe and secure products and services.

Risk Monitoring

Our supervision efforts also help to identify and mitigate risks to the financial system, working both independently and in partnership with our fellow regulators. The FDIC is an active participant in the Financial Stability Oversight Council (FSOC), working with other regulators to monitor activities and events that could pose risks to the financial system. These coordinated efforts help to identify emerging risks to the financial system and are particularly salient in two areas, leveraged lending and cyber threats.

Leveraged Lending

With respect to direct exposure to leveraged loans, banks generally hold the revolving portion of leveraged transactions, which tends to be less risky than the portion held by institutional investors. Nonetheless, risks could flow back into banks through pipeline risk, indirect exposure through financing to nonbank lenders, and investment in collateralized loan obligations (CLOs). In addition, a significant rise in leveraged loan defaults could have broader economic impacts that affect both bank and nonbank sponsors of leveraged loans, and is something the FDIC is carefully monitoring.

Moreover, the FDIC continues to monitor the risks posed by leveraged lending, including developments in the market, growth in leveraged lending, concentrations of exposure at financial institutions, and associated underwriting standards. We are engaged in a continuous dialogue with other regulatory agencies on this matter.

⁹ As of December 31, 2018.

¹⁰ 12 U.S.C. Sections 1820(b)(3) and 1818(t).

¹¹ As of December 31, 2018.

¹² The aggregate amount of the settlement was \$395 million, when the additional \$60 million settlement against another party in the action is counted. FDIC Press Release, FDIC Settles with PricewaterhouseCoopers LLP on Audits of a Failed Bank, PR-19-2019 (March 15, 2019). Available at: <https://www.fdic.gov/news/news/press/2019/pr19019.html>.

Cyber Threats

The FDIC is also actively monitoring cybersecurity risks in the banking industry. FDIC examiners conduct examinations to ensure that financial institutions are appropriately managing their exposure to cybersecurity risk. Our examiners verify that bank management has considered how cyber events could disrupt their operations and has designed resilience into their operations. To support banks in this regard, we recently added two new scenarios to a tool available on our website named “Cyber Challenge.” Cyber Challenge is a set of ready-to-use scenarios and questions to assist banks as they discuss operational risk and the potential impact of information technology disruptions on banking functions. Notwithstanding these efforts, the risks posed by cyber threats remain persistent, and the fight against these threats will require continued joint efforts by the public and private sectors.

Transparency

The FDIC’s responsibilities to preserve and promote confidence in the financial system and to protect the DIF also require openness and accountability to the public and insured institutions. To support these principles, we launched the FDIC’s “Trust through Transparency” initiative in 2018 and created a new section on the FDIC’s public website where we publish FDIC performance metrics.¹³

The site also contains guidelines and decisions related to appeals of material supervisory determinations and deposit insurance assessments, as well as policies and procedures for how we conduct our work. Additionally, we made publicly available information on how our case managers and examiners implement the risk-focused supervision program. The FDIC is further reviewing our processes to ensure we have the proper balance between protecting confidential information and providing public access, and we will add to this website over time.

BSA/AML Compliance

Bank Secrecy Act and Anti-Money Laundering (BSA/AML) laws and regulations are a vital component of U.S. efforts to prevent unlawful financial transactions that help fund criminals, terrorists, and other illicit actors. These terrorists and criminals use increasingly sophisticated methods to conceal their transactions in an evolving financial, technological, and regulatory landscape.

The FDIC and the institutions we supervise for BSA/AML compliance recognize the importance of BSA/AML reporting. Nonetheless, the FDIC also recognizes that meeting these compliance obligations imposes billions of dollars in compliance costs at regulated institutions.

Considering these costs, we continue to encourage the Financial Crimes Enforcement Network (FinCEN) and our partners in law enforcement and the intelligence community to actively communicate the importance of this reporting and the impact that it has on their efforts to detect, deter, and disrupt criminal and terrorist organizations. At a recent CBAC meeting, FinCEN provided just such an eye-opening and unclassified briefing to CBAC members.¹⁴

In addition to these communication and outreach efforts, the FDIC, along with the other Federal banking agencies and the Department of the Treasury, including FinCEN, have convened a working group to focus on initiatives to improve the efficiency and effectiveness of the BSA/AML regulatory regime. The working group has already released statements encouraging innovation in BSA/AML compliance and identifying areas where banks can share compliance resources.¹⁵

CAMELS Ratings

Since I arrived at the FDIC, I have sought to review longstanding processes and procedures that have not received regulatory scrutiny or updating in a decade or more to determine if they warrant modernization. One such supervisory tool is the interagency CAMELS ratings system that has been in place for more than 20 years and is vital to our supervisory efforts. Given its maturity and subsequent changes in the industry and technology, it is appropriate to ask for the public’s views on the existing approach, how it has been implemented, whether it has been applied consistently to institutions of varying sizes, business models, complexity, and risk profiles, and the impact of various ratings on supervisory actions, including

¹³ FDIC Transparency & Accountability (October 4, 2018), available at: <https://www.fdic.gov/transparency/>.

¹⁴ FDIC Transparency & Accountability (October 4, 2018), available at: <https://www.fdic.gov/transparency/>. FDIC Advisory Committee on Community Banking: Archived Videos/Webcast of Advisory Committee Meeting (March 28, 2019), available at: <http://fdic.windrosemedia.com/>.

¹⁵ FRB, FDIC, FinCEN, NCUA, and OCC Interagency Statement on Sharing Bank Secrecy Act Resources, FIL-55-2018 (October 3, 2018), available at: <https://www.fdic.gov/news/news/financial/2018/fil18055.pdf>.

enforcement proceedings and application reviews. I have asked staff to develop options for working with other Federal Financial Institutions Examination Council (FFIEC) members to seek the public's input on this topic.

Reducing Community Bank Examination Burden

The compliance officer at many of our community banks wears many hats, and may also be the Chief Financial Officer, a loan officer, and a teller. If we can make compliance at our Nation's community banks less complex, while maintaining safety and soundness and consumer protections, we can help banks focus resources on the business of banking their communities, not dealing with bureaucracies. As an example, the FDIC was able to archive nearly 60 percent (493) of 837 pieces of supervisory guidance just by eliminating outdated and duplicative documents that had never been archived in more than two decades. We were able to take these steps without compromising the safety of the institutions or the stability of the financial system as a whole.

We have also incorporated additional risk-focusing and leveraged technology in our examinations to reduce the amount of time we are onsite at an institution without sacrificing the quality of our examinations. Risk-focusing allows our examiners to review information from an institution before an examination begins; to gain a better understanding of the institution's business model, complexity, and risk profile; and to focus resources during an exam on areas that present the most risk to the institution or its customers. Technology has allowed our examiners to perform some examination activities at the local field office instead of onsite at the institution, and we are focusing on additional opportunities to take advantage of technology in the examination process.

In 2018, risk-focusing and leveraging technology for consumer compliance exams allowed the FDIC to conduct an average of 62 percent of our examination offsite. We have incorporated similar risk-focusing and technology in our prudential exams, and have cut onsite days from 27 in 2010 to 23 in 2018. As we train our examiners more on the use of these techniques and incorporate new technology, we will further cut the costs of our exams on institutions without compromising on quality.

Leveraging Technology

The FDIC supports innovation in the financial services industry, with particular focus on community banks. To ensure that we are prepared to address the changing landscape in financial services, the FDIC has dedicated significant resources to identify and understand emerging technologies. In October 2018, I announced that the FDIC would be launching an office of innovation, which we have since named the FDIC Tech Lab, or FDiTech for short.

While some banks have spent substantial sums on new technology and others have partnered with fintechs to expand their products and services, many banks—especially smaller banks—have been reluctant or simply unable to invest. We have already engaged with banks to understand how they are innovating and to promote technological development at community banks with limited funding for research and development. We are also looking at policy changes that may be needed to encourage innovation, while maintaining safe and secure financial services and institutions. Rather than play “catch up” with technological advances, the FDIC's goal is to stay on the forefront of changes through increased collaboration and partnership with the industry, to promote increased competition in the financial services sector, and to support innovation at community banks, including MDIs.

Modernizing the FDIC

As the financial services industry changes, the FDIC must evolve.

Over the last year, we have made significant investments in new technology within the FDIC. Our Chief Information Officer has initiated a data management initiative that will promote information sharing within the FDIC and will enable the application of advanced analytic tools to FDIC data sets, including machine learning and artificial intelligence.

We have also established a Supervision Modernization Subcommittee for the CBAC. This subcommittee—composed of banks, technologists, legal experts, former regulators, and distance learning leaders—will make recommendations to the CBAC for improving our supervision activities. These recommendations will support new investments in technology and improvements in our supervision processes, including how we hire, train, and deploy our workforce.

Maintaining a Diverse Workforce

As I explained to the FDIC workforce in my inaugural equal employment opportunity policy statement, my personal and professional experiences have highlighted the importance of a workplace that is free from discrimination and that supports

diversity and inclusion. The FDIC has a long-standing commitment to diversity. The racial, ethnic, and gender diversity of the FDIC workforce continues a steady increase since 2010 with minority representation at 29.9 percent and with women comprising 44.9 percent of permanent employees. We have continued our efforts to promote the participation of Minority and Women-Owned Businesses in FDIC contracting actions. We will continue to cultivate an FDIC that is accessible, inclusive, and diverse, treating everyone with dignity and respect while embracing our differences.

Conclusion

Most of my professional life has been focused on the financial services industry. Before my tenure at the FDIC, I intuitively understood how important our Nation's banks were to the economy. But until I had real conversations with bankers, their customers, and State supervisors on my 50-State listening tour, I did not fully appreciate how our banks—particularly community banks—are so intimately involved in the fabric of their communities and customers' lives. Across the country, these banks help fund a town's grocery stores, barber shops, restaurants, local libraries, and small businesses. In rural communities and urban settings, our banks provide a critical lifeline for low- and moderate-income customers, while supplementing infrastructure and social services.

The FDIC's role is to provide the confidence needed for customers to trust those banks with their deposits. Every day, I am proud to join my colleagues at the FDIC in fulfilling our mission to preserve and promote public confidence in the U.S. financial system. And I would be remiss if I did not mention the 6,000 dedicated FDIC employees who go to work every morning laser-focused on protecting the stability and integrity of our financial system. To them, I am most grateful for their warm welcome and for being open to the accountability, transparency, and collegiality that make me proud to run such an exceptional agency.

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



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Embargoed until Delivery
9:30 a.m.
May 15, 2019

Congressional Testimony

Rodney E. Hood
Chairman
National Credit Union Administration

Senate Committee on Banking, Housing,
and Urban Affairs

Hearing on Oversight of Financial Regulators



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NCUA
National Credit Union Administration

Congressional Testimony

Chairman Crapo, Ranking Member Brown, and Members of the Committee, as Chairman of the National Credit Union Administration (NCUA) Board, I appreciate the invitation to testify today about the state of the credit union industry and provide background on the efforts, activities, objectives, and plans that the NCUA has undertaken and will undertake to fulfill its mission.

The NCUA's mission is to "provide, through regulation and supervision, a safe and sound credit union system, which promotes confidence in the national system of cooperative credit."¹ This system is vital to the American economy, touching more than one-third of all U.S. households.² In turn, the NCUA is charged with, and focused on, ensuring the safety and soundness of the National Credit Union Share Insurance Fund (Share Insurance Fund). The agency takes seriously its paramount responsibilities to regulate and supervise approximately 5,375 federally insured credit unions with more than 116 million member-owners and more than \$1.45 trillion in assets across all states and U.S. territories.³ As an adjunct to that mission, the agency has developed initiatives to make it easier for credit unions to serve their members more effectively, including members of modest means and those in underserved areas.⁴

The first part of my testimony today focuses on the strong state of the credit union industry and the Share Insurance Fund. Next, I will discuss the efforts and initiatives the NCUA has undertaken to meet the goals the agency set out in its *2018–2022 Strategic Plan*: (1) ensuring a safe and sound credit union system; (2) providing a regulatory framework that is transparent, efficient, and improves consumer access; and (3) maximizing organizational performance to enable mission success.⁵ In describing how the NCUA is meeting these goals, I will focus on the NCUA Board's ongoing efforts to improve the agency's efficiency and effectiveness in light of the ever-changing financial services marketplace. The NCUA is striving to reduce the regulatory, reporting, and examination burdens facing credit unions without sacrificing the safety and soundness of the credit union system and, in turn, the Share Insurance

¹ See NCUA Mission and Vision, <https://www.ncua.gov/about-ncua/mission-values>.

² NCUA calculations using the Federal Reserve's *Survey of Consumer Finances*, 2016.

³ Based on December 31, 2018 Call Report Data.

⁴ *Serving the Underserved*, National Credit Union Administration, <https://www.ncua.gov/support-services/credit-union-resources-expansion/field-membership-expansion/serving-underserved>. The Federal Credit Union Act, the statute governing this agency and federally insured credit unions, specifies that this national system is intended to meet "the credit and savings needs of consumers, especially persons of modest means." Credit Union Membership Access Act, Pub. L. No. 105-219, § 2(4), 112 Stat. 913, 914 (1998).

⁵ See NCUA *Strategic Plan 2018–2022*, <https://www.ncua.gov/files/agenda-items/AG20180125Item3b.pdf>.



NCUA
National Credit Union Administration

Fund. I will also address some of the ways the NCUA is promoting financial inclusion and making it easier for credit unions to more effectively serve their members, including the underserved, those of modest means, people with disabilities, and those in vulnerable communities. Finally, I will detail several areas where Congressional action could enhance how the NCUA carries out its safety and soundness mission and allow credit unions to serve their members and communities better, including those of modest means and the underserved.

I. State of the Credit Union Industry and the Share Insurance Fund

Federally insured credit unions continued to perform well in 2018. By year's end, credit union membership grew by more than five million to more than 116 million members. Assets in the credit union system increased to \$1.45 trillion, and the system's aggregate net worth ratio stood at 11.30 percent, well above the seven percent statutory level to be considered a well-capitalized credit union.

The NCUA continues to be a responsible steward of agency funds and remains dedicated to sound financial management practices. Through various actions taken by the NCUA Board from 2017 through the present, the agency has increased the strength of the Share Insurance Fund, paid record distributions back to credit unions, and covered the costs of the recent failure of two large credit unions.

Through prudent management, in 2017, the NCUA was able to close the Corporate Credit Union Stabilization Fund (Stabilization Fund) four years ahead of schedule and transfer its assets and obligations to the Share Insurance Fund. This transfer increased the Share Insurance Fund's equity ratio from 1.25 percent to a strong 1.39 percent as of December 31, 2018 — even after reserving for more than \$750 million in losses associated with the failure of two relatively large credit unions heavily concentrated in taxi medallion secured lending. This higher equity ratio level positions the Share Insurance Fund to cover expected losses and withstand the impact of a moderate recession without needing to assess credit unions a premium to restore the Share Insurance Fund to its statutory minimum level of 1.20 percent.⁶ Because the Stabilization Fund closed early, the NCUA was able to avoid assessing credit unions as much as \$1.3 billion in share insurance premiums, while also providing an historic Share Insurance Fund dividend to be paid to credit unions. In July 2018, the NCUA paid a Share Insurance Fund dividend to credit unions of almost \$736 million — the largest in its history. Another dividend of \$160.1 million will be paid to credit unions in 2019.

At various times throughout 2018, the NCUA was the conservator of six credit unions. As of December 31, 2018, however, no credit unions remained under the NCUA's

⁶ 12 U.S.C. § 1782(c)(2)(C).



NCUA
National Credit Union Administration

conservatorship. For 2018, there were eight credit union failures, compared to 10 failures in 2017. The cost to the Share Insurance Fund for insurance losses was \$785.0 million in 2018, an increase from \$24.4 million in 2017. As discussed above, this increased cost was largely because of actions needed to address the failure of two large credit unions, each of which was highly concentrated in taxi medallion loans. The NCUA continues to evaluate all courses of action that will maximize potential recoveries from the assets of liquidated credit unions and minimize losses to the Share Insurance Fund. Despite these losses, the Share Insurance Fund remains financially strong and has sufficient equity and reserves to cover anticipated losses.

Despite the strong state of the credit union industry and the Share Insurance Fund, we appreciate the NCUA's duty, as a prudential regulator and insurer, to remain cognizant of the various risks and opportunities posed by the rapidly evolving financial services landscape. Below is a more thorough examination of some of the risks facing the broader economy, including the credit union industry.

Market Risks

As noted above, the credit union system is generally quite strong. There are broader market risks on the horizon, however, that could threaten financial stability generally, including the safety and soundness of the credit union system. For example, rising debt levels may pose some risks to the economy. Corporate debt has increased steadily since 2012,⁷ and non-financial debt as a share of the economy is currently at very high levels.⁸ A number of factors has driven or facilitated this run-up in borrowing, including share buybacks, low interest rates, and high profits. Since 2012, there has been a particularly sharp increase in the pool of higher-risk debt. The volume of BBB-rated debt, the riskiest tier of investment grade debt, has increased significantly over the last several years.⁹ An economic downturn or credit quality downgrades for these lower quality bonds could push them into the speculative grade or "junk" category, which might produce a sell-off in these bonds because some investors are restricted to holding investment-grade debt. A sell-off could limit capital investment and diminish financial stability.

Another market risk is continued uncertainty about the post-Brexit future of the European Union and the United Kingdom.¹⁰ This uncertainty could lead to increased financial market volatility and greater risk aversion, stressing the banking system, causing financial conditions to tighten, and possibly leading to slower economic growth

⁷ See <https://fred.stlouisfed.org/series/NCBDBIQ027S>.

⁸ See <https://www.dallasfed.org/research/economics/2019/0305.aspx>; <https://www.marketwatch.com/story/these-5-charts-warn-that-the-us-corporate-debt-party-is-getting-out-of-hand-2018-11-29>.

⁹ See <https://www.dallasfed.org/research/economics/2019/0305.aspx>.

¹⁰ See <https://www.reuters.com/article/britain-rating-moody-s-idi/NKCN1RN165>.



NCUA
National Credit Union Administration

in Europe. Foreign economic activity has already showed signs of slowing and is expected to moderate further over the next year. While experts are not predicting a global recession, a significant deterioration in global economic conditions would have ramifications in international financial markets and the U.S. economy.

Cybersecurity and Technology

Cybersecurity threats and other technology-related issues continue to be of key interest and concern to the NCUA. Cyberattacks pose an acute threat to credit unions, financial regulators, and the broader financial system. Cyber threats such as phishing scams, ransomware, and malware have proliferated in recent years, and financial institutions like credit unions are prime targets. That is why the NCUA again made cybersecurity assessment one of its primary areas of supervisory focus in 2018, and why I will continue to prioritize it as the NCUA's new Chairman.¹¹ I will make certain that we employ all available resources to ensure data protection for consumers and combat cybersecurity threats.

Last year, the NCUA began implementing a new Automated Cybersecurity Examination Tool, or ACET, to improve and standardize supervision related to cybersecurity.¹² The new examination tool currently is being applied to larger credit unions with over \$250 million in assets, but the NCUA continues to test and refine the tool so that we can properly scale it down to apply to smaller, less complex institutions. We believe this will help focus and prioritize cybersecurity for credit unions and make it an integral part of their risk-management strategies.

We also have placed a very strong emphasis on protecting the NCUA from cybersecurity threats and data breaches. The NCUA's Office of the Chief Information Officer is continually taking steps to enhance the agency's information security posture and ensure the NCUA's systems and information are protected from compromise.

Additionally, while technological advances provide credit unions with tremendous opportunities, they also bring new risks. Consumer demand for more modern services and realities about economies of scale have forced many credit unions, particularly smaller ones, to either merge or rely heavily on third-party vendors to enable them to provide those services. As discussed throughout my testimony, the NCUA is working to keep pace with the changes brought by emerging technology and the related threats they pose. In July 2018, the NCUA created Blockchain and Fintech Working Groups to perform an in-depth analysis of financial technology developments, including cryptocurrencies, and their implications for the credit union system. The working

¹¹ "Supervisory Priorities for 2018," NCUA Letter to Credit Unions, Number 17-CU-09, Dec. 2017, available at <https://www.ncua.gov/files/letters-credit-unions/17-CU-09-supervisory-priorities-2018.pdf>.

¹² *Id.*



NCUA
National Credit Union Administration

groups have been evaluating both the opportunities and risks associated with these new technologies.

Fintech and credit union reliance on third-party vendors increases systemic cybersecurity risks across the financial services landscape. The credit union system is particularly at risk because the NCUA does not have sufficient legal authority to directly identify and address systemic cybersecurity risk and the potential contagion risk that key fintech service providers can pose.

Currently, the NCUA may only examine credit union service organizations (CUSOs) and third-party vendors with their permission. We cannot enforce any necessary corrective actions or share the results of a voluntary review with customer credit unions of the third-party vendor. In recent years, nearly all of the core technology service providers that exclusively serve credit unions declined a voluntary review by the NCUA. Even though CUSOs are required to give the NCUA access to their books and records, without the NCUA's enforcement authority, the CUSOs are free to reject the NCUA's recommendations to implement the appropriate corrective actions that would mitigate identified risks. This lack of vendor authority stands in contrast to the powers of the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and most state regulators, a situation identified as a concern by both the Government Accountability Office and the Financial Stability Oversight Council (FSOC).¹³

As Chairman, I am committed to working with the NCUA's partners on the FSOC to ensure that various threats to financial markets are properly monitored and mitigated. In March 2019, the FSOC proposed new interpretive guidance on how it would consider designation of nonbank financial companies for enhanced supervision by the Federal Reserve.¹⁴ The guidance calls for the FSOC to focus on an activities-based, or product-based, approach for identifying risks to U.S. financial stability. It would increase the analytical rigor of company determination analyses and ensure that the anticipated benefits of a designation are expected to justify the expected costs. This guidance will increase the FSOC's transparency and will provide the market with much needed clarity on its deliberations. It also ensures that the FSOC is looking at the widest range of potentially problematic financial activities that could threaten market stability.

¹³ GAO, Electronic Banking: Enhancing Oversight of Internet Banking Activities, GAO/GGD-99-91 (Washington, D.C.: July 6, 1999). Also, see GAO-04-91 and See U.S. Gov't. Accountability Office, GAO-15-509, Cybersecurity: Bank and Other Depository Regulators Need Better Data and Analytics and Depository Institutions Want More Usable Threat Information 32 (2015), available at <https://www.gao.gov/assets/680/671105.pdf>.

¹⁴ U.S. Treasury Department, "Financial Stability Oversight Council Proposes Changes to Nonbank Designation Guidance," Mar. 6, 2019, available at <https://home.treasury.gov/news/press-releases/sm621>.



NCUA
National Credit Union Administration

II. The NCUA's Recent Efforts and Activities

The NCUA's primary mission is to protect the safety and soundness of the credit union system and the Share Insurance Fund. As an adjunct to that mission, the agency has developed initiatives to facilitate credit unions more effectively serving their members and communities, including the underserved and those of modest means. As mentioned, as part of the agency's *2018–2022 Strategic Plan*, the NCUA established three goals: (1) ensuring a safe and sound credit union system; (2) providing a regulatory framework that is transparent, efficient and improves consumer access; and (3) maximizing organizational performance to enable mission success.¹⁵ Below I will detail the steps the agency is taking to fulfill these missions and achieve these goals.

In meeting the established goals, it is essential that the NCUA Board develops a regulatory environment that meets our safety and soundness mission, but does not unnecessarily inhibit flexibility and innovation within the credit union system and allows credit unions to continue to serve all of their members. As the financial services landscape evolves, the NCUA must evolve with it to promote continued financial stability within the credit union system. In so doing, it is imperative that the agency continues to fulfill its mission in a fully transparent, accountable, and efficient manner. I believe that the NCUA Board is obligated to consider the compliance burdens and the costs our institutions shoulder on a day-to-day basis. As a result, we must reduce, streamline, or eliminate outdated or overly burdensome regulations where possible, so credit unions can simultaneously stay competitive in the changing environment and continue to provide financial services to their members and communities.

Since 2017, the NCUA has been undergoing a reform and modernization effort. This effort has seen the NCUA reduce the agency's regional structure from five to three regional offices and reorganize several central office functions to reduce costs and increase efficiencies. As part of the agency's broader reform plan, we also undertook a number of actions and initiatives designed to: (1) increase the agency's effectiveness in maintaining the safety and soundness of the credit union system and the Share Insurance Fund; (2) increase the efficiency in our examination, data collection, and reporting efforts; (3) decrease regulatory burdens; (4) increase diversity within the NCUA and the broader credit union industry; and (5) empower credit unions to better serve those of modest means and the underserved.

a. Initiatives Aimed at Increasing Agency Effectiveness in Maintaining Safety and Soundness of the Credit Union System and the Share Insurance Fund

¹⁵ See *NCUA Strategic Plan 2018–2022*, available at <https://www.ncua.gov/files/agenda-items/AG20180125Item3b.pdf>.



NCUA
National Credit Union Administration

The NCUA has undertaken a variety of initiatives to improve the agency's effectiveness in fulfilling our core mission: protecting the safety and soundness of the credit union system and the Share Insurance Fund. More specifically, in ensuring the success of this mission, the NCUA has: (1) continued to modernize and improve how it conducts examinations of federally insured credit unions; (2) worked to become more proactive in ensuring accountability through enforcement actions against credit union employees and officials engaging in unsafe and unsound practices or fraud; (3) committed to keeping pace with financial technology developments and the opportunities and risks they pose to credit unions; (4) continued efforts to ensure compliance with consumer protection laws and regulations, the Bank Secrecy Act (BSA), and other applicable laws and regulations; and (5) enhanced transparency surrounding voluntary mergers for the benefit of members. These initiatives complement the NCUA Board's efforts to reduce regulatory, examination, and reporting burdens for federally insured credit unions discussed later.

i. Modernized Examination Considerations

The NCUA has several ongoing initiatives to improve and modernize how the agency conducts its examination and supervision of credit unions. The goals of these initiatives are to streamline processes, adopt enhanced examination techniques, and leverage new technology and data.

Improved Risk Identification Techniques

The NCUA is developing new and advanced risk identification and monitoring capabilities and techniques. These new data and analytical techniques will facilitate more data-driven supervision and enable the agency to better identify and address risk outliers. Additionally, the NCUA incorporated advances in identifying credit unions with an elevated risk of fraud. This further supports the objective to spend less time onsite at low-risk credit unions and leverage technology to maximize efficiency.

Increased Use of Specialists

With the increasing complexity of the financial services landscape, the NCUA has expanded its use of specialists within its examination ranks. We added additional disciplines and subject matter experts to our examination teams to address a broader range of financial products, services, and risks effectively.

Expanded Examiner Training and Guidance

The NCUA recognizes the importance of identifying undue risk exposures timely and relies on both specialized staff and techniques to do so. The agency updated its subject matter examiner training to ensure specialists maintain current knowledge sets and are consistent in the analysis of risk and determination of safety and soundness concerns.



NCUA
National Credit Union Administration

The NCUA has also conducted a comprehensive update to its core examiner training. Additionally, the NCUA's *Examiner's Guide* is undergoing an extensive update to expand and clarify risk management expectations for the growing range of financial services credit unions engage in.

Enhanced Examination Quality Control

The NCUA is improving its quality control program to strengthen the examination and supervision process. These improvements will increase our consistency when assessing risk. It will also enable the agency to better identify and address safety and soundness issues.

ii. More Proactive Enforcement

Over the last several years, the NCUA has made a concerted effort to take a more proactive approach to policing the actions of credit union employees and officials through Administrative Orders. As background, Administrative Orders are formal enforcement orders issued by the NCUA pursuant to Section 206 of the Federal Credit Union Act (FCU Act).¹⁶ Generally, the NCUA issues Administrative Orders when it finds that a person affiliated with a credit union has engaged in an unsafe or unsound practice, committed a breach of fiduciary duty, or violated a law, rule, or regulation. The most common orders issued by the NCUA include:

- An **Order to Cease and Desist**, which requires a party to take action (or refrain from taking action), including making restitution; and
- An **Order of Prohibition**, which prohibits a party from ever working for a federally insured financial institution.

The NCUA has increased enforcement staff within the Office of General Counsel and has made efforts to proactively impose administrative sanctions, including Orders of Prohibition, against individuals whose conduct constitutes an unsafe or unsound practice, breach of fiduciary duty, or violation of law, rule, or regulation, but has not yet resulted in criminal charges or a conviction. For a variety of reasons, federal, state, and local law enforcement may opt not to pursue charges against an individual despite their improper conduct. This more proactive approach has allowed the NCUA to remove bad actors from the industry and ensure they do not pose further risk to another federally insured financial institution. In several instances, the NCUA's enhanced investigative and enforcement actions have led law enforcement authorities to file charges and obtain convictions.

¹⁶ 12 U.S.C. § 1786.



NCUA
National Credit Union Administration

The NCUA takes seriously its paramount responsibility to protect the safety and soundness of the credit union industry and the Share Insurance Fund. The agency is committed to supervising the industry to prevent illicit or unsafe or unsound conduct.

iii. NCUA Action Related to Financial Technology and the Credit Union Industry

Financial technology, or fintech, generally refers to the use of technology to provide financial services in an innovative way. Such services can involve directly serving consumers as well as back office support functions. Some examples of technologies that are upending the delivery of traditional financial services include:

- Peer-to-peer payment systems;
- Artificial intelligence and machine learning that can be used to develop lending models or identify fraud; and
- Blockchain and distributed ledger technologies that can be used for various credit union operations, including payment systems and identity management.

Fintech companies are rapidly changing, and in some cases disrupting, the design and delivery of financial services. Many consumers, businesses, and financial institutions are eager to engage in financial transactions with added convenience and efficiency. Fintech can be developed and offered by financial institutions, third-party vendors, or new entrants into the financial services market. Some fintech companies compete directly with traditional financial institutions, including credit unions, by providing products and services that were once predominantly only available through depository institutions. While financial innovation holds promise, it is crucial that credit unions, consumers, and other stakeholders understand and mitigate associated risks. The NCUA's goal is to balance maintaining the safety and soundness of credit unions without stifling their use of innovative technology and related vendors. Credit unions need to embrace fintech as their banking counterparts do, while simultaneously clearly understanding and managing any risks they incur. To that end, the NCUA has undertaken several initiatives to address the changing financial services landscape, including:

- In 2018, the NCUA convened two working groups to study these issues: the Fintech Working Group and the Blockchain Working Group.
 - The NCUA's Fintech Working Group is working to identify ways federally insured credit unions can adopt and embrace fintech so they can effectively compete in the changing financial services industry.
 - The NCUA's Blockchain Working Group was established to understand the impact of cryptocurrencies and their underlying distributed ledger technology on the credit union system. The Blockchain Working Group



NCUA
National Credit Union Administration

briefed the NCUA Board at the December 2018 open Board meeting and is currently conducting industry outreach efforts.

- Ongoing Monitoring
 - The NCUA is continuing to research and monitor financial technology including online lenders, machine learning, artificial intelligence, and payment systems to identify how they may impact credit unions. The NCUA is interested not only from a competitive standpoint, but also in how credit unions are partnering with market place lenders and other fintech companies.

Fintech is revolutionizing financial services and the delivery of those services, and consumers are benefiting from increased access to efficient and affordable financial services. It also is requiring traditional financial service providers to adapt and embrace methods, technological innovations, and new technology partners in order to remain competitive in the marketplace. The adoption of many modern technologies requires contractual relationships with third-party vendors. Many fintech companies, however, operate outside of the existing regulatory regime that governs financial institutions, even though most of the key infrastructure vendors (including data processing, payment systems, information technology, lending, and shared branching) have a definite information security and/or anti-money laundering (AML) dimension. Further, fintech increases potential systemic cybersecurity risks across the financial services landscape. The credit union system is particularly vulnerable to this risk because the NCUA does not have sufficient legal authority to directly identify and address systemic cybersecurity risk and the potential contagion risk that key fintech service providers can pose.

Overall, the reduced scrutiny of fintech companies has the potential to present an uneven playing field between them and traditional financial institutions. In addition, without clear-cut oversight from federal regulators, the NCUA has concerns about the risks fintechs could pose to credit union members, the Share Insurance Fund, and the stability of the broader financial system. To help address concerns about regulatory arbitrage, the NCUA is also actively coordinating its supervisory efforts with the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

Additionally, the NCUA is participating in the following interagency initiatives:

- Interagency Fintech Discussion Forum—This forum, convened by the Board of Governors of the Federal Reserve, provides an opportunity for senior-level representatives to discuss each agency's actions related to fintech and identify opportunities for collaboration, specifically related to consumer protections.
- Mobile Payments Industry Working (MPIW) Group—The NCUA participates in the MPIW Group, which meets regularly to consider potential resolutions for



NCUA
National Credit Union Administration

shared issues and the elimination of barriers to adoption of retail mobile or digital payments.

- Federal Financial Institutions Examination Council (FFIEC) Task Force on Supervision (TFOS)—The TFOS coordinates and oversees matters relating to safety-and-soundness supervision and examination of depository institutions. It provides a forum for Council members to promote quality, consistency, and effectiveness in examination and other supervisory practices. While significant issues and recommendations are referred to the Council for consideration and action, the Council has delegated to the TFOS the authority to make certain decisions and recommendations, provided that no TFOS member dissents or requests review by the Council. Meetings are held monthly to address and resolve common supervisory issues. The TFOS also maintains supervisory communication protocols to be used in emergencies. These protocols, established by the TFOS, are periodically tested through exercises with TFOS members and key supervisory personnel.
- FFIEC Task Force on Consumer Compliance—The Task Force on Consumer Compliance (TFCC) promotes policy coordination, a common supervisory approach, and uniform enforcement of consumer protection laws and regulations. The TFCC identifies and analyzes emerging consumer compliance issues and develops proposed policies and procedures to foster consistency among the agencies. Additionally, the TFCC reviews legislation, regulations, and policies at the state and federal level that may have a bearing on the consumer compliance supervision responsibilities of the member agencies.

iv. Ensuring Compliance with Consumer Protection Laws and Regulations, the Bank Secrecy Act, and other Applicable Laws and Regulations

Ensuring Compliance with Consumer Protection Laws and Regulations

The NCUA performs annual targeted reviews for compliance with various consumer financial protection regulations during the agency's safety and soundness examinations of federal credit unions. Additionally, in 2018, the NCUA's Office of Consumer Financial Protection spent over 4,700 hours examining credit unions for compliance with fair lending laws and regulations. In addition, agency staff spent approximately 1,000 hours performing offsite supervision contacts to review credit unions' loan policies and, if necessary, provide recommendations to bring them into compliance with fair lending laws. The Consumer Assistance Center is another critical part of the NCUA's enforcement of consumer financial protection laws and regulations. It receives and handles consumer complaints and does its own investigation to determine compliance with applicable federal consumer financial protection laws and regulations. During the year, the Consumer Assistance Center assisted 53,337 consumers, up from



NCUA
National Credit Union Administration

52,635 in 2017, and recorded more than \$822,000 in monetary benefits for complainants.¹⁷

Additionally, the NCUA participates on the FFIEC's Task Force on Consumer Compliance, which promotes policy coordination, a common supervisory approach, and uniform enforcement of consumer protection laws and regulations.

Ensuring Compliance with the Bank Secrecy Act

The NCUA takes seriously its obligations to supervise federal credit unions for compliance with the various BSA and AML laws and regulations. As technology has become embedded in financial systems, even small financial institutions like credit unions can be vulnerable to illicit finance activity. The NCUA examines federal credit union compliance with BSA during every examination that we conduct. Additionally, the NCUA assists state regulators by conducting BSA examinations in federally insured, state-chartered credit unions where state resources are limited. In 2018, the NCUA conducted 3,308 BSA examinations in federal credit unions.

The NCUA's BSA reviews are risk-focused and include a set of core procedures that cover an institution's compliance with the pillars of the BSA. These core procedures are based on the FFIEC examination procedures we issue jointly with the other federal financial regulatory agencies. In addition to the core procedures, examiners are trained and directed to tailor examinations based on the unique risk characteristics of each federal credit union. Federal credit unions that have diverse platforms with higher risk activities will receive an expanded review tailored to the unique risk characteristics they present. Conversely, examinations of smaller, low-risk credit unions are appropriately scaled to minimal necessary procedures consistent with their risk characteristics and our obligations under the FCU Act.

The NCUA coordinates regularly with our counterparts as the other federal financial regulatory agencies, as well as the Financial Crimes Enforcement Network (FinCEN). The NCUA actively participates in the Bank Secrecy Act Advisory Group (BSAAG) and the FFIEC BSA Working Group. Additionally, the NCUA is part of a recently established interagency working group to improve effectiveness and streamline, where possible, our regulations and supervisory processes. The working group recently issued a Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist

¹⁷ This figure includes restitution by the credit union, relief from an alleged monetary obligation imposed by the credit union, and access to disputed credit or financial services products otherwise not available to the member by the credit union.



NCUA
National Credit Union Administration

Financing,¹⁸ as well as an Interagency Statement on Shared BSA Resources.¹⁹ Both joint statements provide appropriate information for institutions to leverage resources and new technologies to improve and streamline their BSA compliance obligations. The NCUA intends to continue to foster collaborative working relationships with our regulatory counterparts, including FinCEN. I believe that this is especially important in addressing substantial concerns related to the proliferation of cash-based businesses, which further necessitates reforming and modernizing the BSA regime.

Finally, the NCUA also communicates with the credit union industry through numerous channels, including: BSAAG participation and outreach; assistance and participation in national events applicable to the BSA attended by credit union industry professionals and leaders; and through periodic and ongoing training via webinars. The NCUA continues to maintain transparency in its policy positions. To that end, the agency publishes our examination and policy manuals, as well as nearly all guidance and directives provided to examiners related to the supervisory process or examinations.²⁰

v. Enhancing Transparency Surrounding Voluntary Mergers

The NCUA Board recently adopted changes to the agency's voluntary mergers regulation designed to increase transparency and member engagement.²¹ As background, the FCU Act requires the NCUA Board's "prior written approval" for any merger or consolidation between insured credit unions.²² In granting or withholding this approval, the FCU Act requires the Board to consider six factors, which are:

1. The history, financial condition, and management policies of the credit union;
2. The adequacy of the credit union's reserves;
3. The economic advisability of the transaction;
4. The general character and fitness of the credit union's management;
5. The convenience and needs of the members to be served by the credit union; and
6. Whether the credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.²³

¹⁸ The statement can be found at <https://www.ncua.gov/files/press-releases-news/joint-statement-bsa-innovation.pdf>.

¹⁹ The statement can be found at <https://www.ncua.gov/newsroom/press-release/2018/agencies-issue-joint-statement-encourage-innovative-approaches-bsaaml-compliance>.

²⁰ Some examiner guidance is kept confidential, such as fraud detection techniques, in order to maintain their integrity and effectiveness.

²¹ 83 Fed. Reg. 30301 (June 28, 2018).

²² 12 U.S.C. § 1785(b)(3).

²³ *Id.* § 1785(c).



NCUA
National Credit Union Administration

These factors are broader than safety and soundness and require the NCUA to consider the effect of the proposed merger on credit union members. The NCUA's merger regulation ensures that consideration of member interests by requiring a member vote on the proposed merger in addition to the NCUA's oversight.

Under the revised merger rule, members of a credit union whose board has voted to merge must receive notice at least 45 days before the vote, and have an opportunity to submit comments about the proposed merger for posting on a section of the NCUA's website where other members can view the comments. The revised regulation also more clearly articulates the required content and format of the member notice to ensure that credit union members have all relevant information about the proposed merger, including merger-related financial incentives for staff or officials. The revised rule applies to all insured credit unions, whether state or federally chartered. The NCUA's Regional Offices review merger application packages and member notices to ensure compliance with the regulation before the members vote.

The FCU Act also requires the NCUA Board's prior approval for most transactions between insured credit unions and other institutions,²⁴ and directs the NCUA to oversee the methods and procedures of the member vote when an insured credit union proposes to convert to a mutual savings bank.²⁵ The NCUA has adopted regulations addressing credit union conversions to banks, mergers into banks, and mergers with privately insured credit unions, all of which provide for member votes.²⁶ The NCUA is also aware that the number of transactions where an insured credit union has acquired a bank or portions of a bank have been increasing. Currently, the NCUA addresses these types of transactions on a case-by-case basis. The NCUA's oversight of these transactions focuses on ensuring that insured credit unions retain only permissible assets and that former bank customers receive all the rights and privileges of credit union membership when such transactions close.

b. Initiatives Aimed at Increasing Agency Efficiency and Reducing Examination and Reporting Burdens

The NCUA continues to improve the regulatory environment for credit unions without sacrificing our safety and soundness mission. Pursuant to its reform and modernization efforts, the agency has reduced its regional structure from five to three regional offices and reorganized several central office functions to reduce costs and increase efficiencies.

²⁴ 12 U.S.C. § 1785(b)(1).

²⁵ *Id.* § 1785(b)(2)(G)(ii).

²⁶ 12 CFR §§ 708a, 708b.



NCUA
National Credit Union Administration

As part of the agency's reform efforts, the NCUA has also undertaken a number of initiatives to increase the efficiency in our examination, data collection, and reporting efforts. Specifically, I call your attention to the following three programs:

Exam Flexibility Initiative²⁷

This initiative provides greater examination efficiency and flexibility for credit unions and the agency, and improves coordination with state supervisors. Because of this initiative, the NCUA adjusted the frequency of examinations based on a credit union's size, complexity, operating condition, and, in the case of state-chartered credit unions, the frequency of state examinations. This initiative resulted in meaningful regulatory relief for the vast majority of credit unions, led to greater coordination between federal and state regulators, and allowed the NCUA to focus more efforts on troubled credit unions, with the anticipated benefit of addressing some problems earlier when they are easier and less costly to resolve.

The Enterprise Solution Modernization Program²⁸

This multi-year program modernizes the NCUA's technology infrastructure to create an integrated examination and data environment, and further enhances the agency's cybersecurity posture. It incorporates emerging technology solutions that support the NCUA's examination, data collection, and reporting efforts to improve key, integrated business processes and meet applicable security protocols. The program will improve the examination process and ease burdens on credit unions and staff by reducing the amount of examination and supervision time spent onsite in credit unions. The NCUA expects an improved user experience and increased efficiencies when the new systems are in place.

The Call Report Modernization Project²⁹

This project complements the Enterprise Solution Modernization Program and involves a comprehensive review of Call Report and Credit Union Profile data content.³⁰ The NCUA developed a prototype Call Report and Profile that eliminated outdated fields and simplified the reporting process without sacrificing important information

²⁷ See NCUA Exam Flexibility Initiative, <https://www.ncua.gov/About/Pages/open-government/exam-flexibility-initiative.aspx>.

²⁸ See NCUA Enterprise Solution Modernization (ESM) Program, <https://www.ncua.gov/About/Pages/open-government/enterprise-solution-modernization-program.aspx>.

²⁹ See NCUA Call Report Modernization, <https://www.ncua.gov/About/Pages/open-government/call-report-modernization.aspx>.

³⁰ The NCUA uses the Call Report and Profile to collect financial and nonfinancial information from federally insured credit unions. The resulting data are integral to risk supervision at institution and industry levels, which is central to safeguarding the integrity of the Share Insurance Fund.



NCUA
National Credit Union Administration

necessary for proper supervision and data analyses. In order to ensure a transparent and collaborative process, the agency solicited public comment on the prototype. The NCUA estimates the proposed changes will reduce the number of account codes collected from credit unions. If the proposal is adopted, the agency will revise and improve its Call Report schedules and instructions to make it easier for credit unions to complete this critical regulatory filing.

c. Initiatives Aimed at Decreasing Regulatory Burdens

My longstanding regulatory philosophy is that regulation needs to be effective, but not excessive. Consistent with the spirit of President Trump's regulatory reform agenda and Executive Order 13777, the NCUA established a Regulatory Reform Task Force to oversee the implementation of the agency's own regulatory reform agenda. Although the NCUA, as an independent regulatory agency, is not required to comply with Executive Order 13777, the agency chose to comply with its spirit by undertaking a comprehensive review of all of the NCUA's regulations. Beginning in 2017, the Regulatory Reform Task Force began reviewing the agency's rules with an eye towards creating a transparent and fully accountable regulatory framework that acknowledges the need for flexibility, creates new avenues for growth, and strengthens the system's resiliency, while simultaneously reducing the regulatory burden where prudent and appropriate.

The Regulatory Reform Task Force published the NCUA's first report for public comment in August 2017.³¹ This reform agenda proposed a four-year, three-tiered regulatory relief plan with approximately 40 regulatory relief recommendations. After reviewing and considering the comments received, the Task Force issued its second and final report in December 2018.³² This second report provided an updated blueprint for the agency's regulatory reform agenda and a formal means of measuring the agency's regulatory relief efforts moving forward.³³

To date, the NCUA has completed twelve of the reports' regulatory relief recommendations and proposed rules or commenced action on seven others. Specifically, the NCUA issued final regulations or took other final actions designed to:

³¹ 82 FR 39702 (Aug. 22, 2017), available at <https://www.ncua.gov/About/Pages/board-actions/comments/Documents/regulatory-review-notice-2017.pdf>.

³² 83 FR 65926 (Dec. 21, 2018), available at <https://www.govinfo.gov/content/pkg/FR-2018-12-21/pdf/2018-27473.pdf>. A consolidated version of the final report is available at <https://www.ncua.gov/files/agenda-items/AG20181213Item1b.pdf>.

³³ See Implementation of the NCUA's Regulatory Reform Agenda, available at <https://www.ncua.gov/regulation-supervision/rules-regulations/regulatory-reform-agenda/implementation-ncuas-regulatory-reform-agenda>.



NCUA
National Credit Union Administration

- Provide additional flexibility to corporate credit unions' capital standards;³⁴
- Improve the NCUA's emergency merger process;³⁵
- Recognize that federal credit unions may securitize the loans they make;³⁶
- Improve the NCUA's appeals process for examination determinations to ensure due process and fairness;³⁷
- Improve and centralize the NCUA's appeals procedures in one section of the NCUA's regulations;³⁸
- Provide greater transparency regarding the calculation of each eligible financial institution's pro rata share of a declared equity distribution from the Share Insurance Fund;³⁹
- Decrease the burden and improve the efficiency of the NCUA's capital planning and stress testing rules;⁴⁰
- Decrease burden and add flexibility to the NCUA's advertising requirements;⁴¹
- Add flexibility to the NCUA's field-of-membership processes;⁴²
- Make clarifying and technical changes to improve the user-friendliness of the NCUA's loan maturities requirements;⁴³
- Clarify the NCUA's limits on loans to a single borrower or group of associated borrowers;⁴⁴ and
- Delay the effective date of the NCUA's risk-based capital rule and decrease the number of credit unions covered by the rule.⁴⁵

Additionally, the NCUA proposed or sought advanced comment on amendments that would provide regulatory relief by:

- Permitting federal credit unions the ability to provide an additional market-based alternative to payday loans;⁴⁶
- Improving the NCUA's regulations governing federal credit union bylaws;⁴⁷

³⁴ 82 FR 55497 (Nov. 22, 2017).

³⁵ 82 FR 60283 (Dec. 20, 2017).

³⁶ Asset Securitization Authority, NCUA OGC Op. Ltr. 17-0670 (June 21, 2017), available at <https://www.ncua.gov/regulation-supervision/Pages/rules/legal-opinions/2017/asset-securitization-authority.pdf>; and 82 FR 29699 (June 30, 2017).

³⁷ 82 FR 50270 (Oct. 30, 2017).

³⁸ 82 FR 50288 (Oct. 30, 2017).

³⁹ 83 FR 7954 (Feb. 23, 2018).

⁴⁰ 83 FR 17901 (Apr. 25, 2018).

⁴¹ 83 FR 17910 (Apr. 25, 2018).

⁴² 83 FR 30289 (June 28, 2018).

⁴³ 84 FR 10971 (Mar. 25, 2019).

⁴⁴ *Id.*

⁴⁵ 83 FR 55467 (Nov. 6, 2018).

⁴⁶ 83 FR 25583 (June 4, 2018).

⁴⁷ 83 FR 56640 (Nov. 13, 2018).



NCUA
National Credit Union Administration

- Improving the NCUA's appraisals regulation to reduce burden and make compliance easier.⁴⁸
- Improving the NCUA's regulations governing fidelity bond for credit unions;⁴⁹
- Simplifying and clarifying the audit process required by the NCUA's regulations by replacing the current highly prescriptive standard to comply with the Supervisory Committee Guide with minimum procedures to be included in an audit;⁵⁰
- Providing flexibility on the NCUA's regulations regarding the timing of a compensated auditor delivering the written annual audit report to the credit union;⁵¹ and
- Seeking advanced comment on how to enhance the clarity of, and potentially provide greater flexibility to, the NCUA's requirements governing compensation for credit union employees and officials in connection with loans to members.⁵² These requirements are separate from the interagency action undertaken by the NCUA and various other regulators related to the incentive compensation requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).⁵³ The agencies continue to work on these incentive compensation requirements in order to resolve outstanding issues and move forward with further action.

With the Regulatory Reform Task Force's review of the NCUA's regulations complete and its recommendations in the process of being implemented, the NCUA has reinstituted its annual regulatory review to provide stakeholders with an ongoing means of providing feedback on the NCUA's regulations. As part of this process, the agency reviews and solicits public comment on one-third of the agency's regulations each year. Agency staff then provides the NCUA Board with regulatory recommendations, based in part on the comments received. The NCUA opened the comment period for the first one-third of its regulations in January 2019.⁵⁴

⁴⁸ 83 FR 49857 (Oct. 3, 2018).

⁴⁹ 83 FR 59318 (Nov. 23, 2018).

⁵⁰ 84 FR 5957 (Feb. 25, 2019).

⁵¹ *Id.*

⁵² 84 FR 16796 (Apr. 23, 2019).

⁵³ In 2011, the NCUA joined with six other federal financial regulators to issue a proposed rule implementing Section 956 of the Dodd-Frank Act. The agencies issued a revised proposed rule in 2016. The 2016 proposed rule would require federally insured credit unions with assets of \$1 billion or more to provide the NCUA with information about the structure of future incentive-based executive compensation programs. The joint agency rulemaking would prohibit incentive-based compensation payment arrangements in financial institutions with \$1 billion or more in assets that the agencies determine would encourage inappropriate risks by providing excessive compensation or that could lead to material financial loss.

⁵⁴ See Regulatory Review, <https://www.ncua.gov/regulation-supervision/rules-regulations/regulatory-review>.



NCUA
National Credit Union Administration

Separately, I would also like to emphasize that, as the NCUA's new Chairman, it is a priority of mine to ensure that the NCUA's regulations governing risk and capital are appropriately harmonized. Risk and capital are the underpinnings of a safe and sound credit union system and need to work in concert. Capital requirements must be properly tailored to ensure that credit unions are holding levels of capital that are appropriate for and commensurate with their individual risk profiles. I will do my level best to ensure that the NCUA's requirements properly balance risk and capital to ensure a credit union system that is both safe and sound and allows for maximum efficiency.

d. Diversity and Inclusion at the NCUA and in the Credit Union Industry

The NCUA has worked hard to encourage diversity and inclusion both within the agency and the broader credit union industry. Below is a summary of the NCUA's diversity and inclusion activities and efforts related to implementation of Section 342 of the Dodd-Frank Act and compliance with Section 308 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), as amended by the Dodd-Frank Act, as it relates to minority depository institutions (MDIs).

i. The NCUA's Implementation of Section 342 of the Dodd-Frank Act

Assessing the Diversity Policies and Practices of Entities Regulated by the Agency

Pursuant to Section 342(b)(2)(C) of the Dodd-Frank Act, credit unions and other financial institutions, especially those with more than 100 employees, are encouraged to conduct annual self-assessments of diversity and inclusion practices and policies related to workforce and contracting activities. To facilitate the self-assessment process, the federal financial regulatory agencies collectively established the diversity standards set forth in the 2015 Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices.⁵⁵ The joint standards are grouped into these five areas, or sets of standards:

1. Organizational commitment to diversity and inclusion;
2. Workforce profile and employment practices;
3. Procurement and business practices (supplier diversity);
4. Practices to promote transparency; and
5. Entities' self-assessment.

The standards provide a framework for a financial institution to create or strengthen its diversity policies and practices. Using these joint standards, the NCUA created the

⁵⁵ 80 FR 33016 (June 10, 2015).



NCUA
National Credit Union Administration

Annual Voluntary Credit Union Diversity Self-Assessment tool, tailored for credit unions, that provides guidance for advancing diversity and inclusion.⁵⁶ It also highlights best practices for demonstrating a commitment to diversity and inclusion. Credit unions began conducting and submitting self-assessments voluntarily to the NCUA's Office of Minority and Women Inclusion (OMWI) in 2016. The NCUA uses the aggregated self-assessment data to monitor progress and trends in credit union diversity-related activities. OMWI only shares the results anonymously, primarily in the NCUA's annual *OMWI Report to Congress* and in an annual report of the self-assessment results. The first of these reports is the *2017 Credit Union Diversity Self-Assessment Results Report* issued in 2018.

The self-assessment data also informs the NCUA of areas where additional guidance could be useful. When appropriate, the NCUA issues such guidance to assist credit unions with their diversity efforts. In 2018, the NCUA issued a *Credit Union Guide to Supplier Diversity* after identifying that many credit unions reported low levels of engagement in this area. The NCUA's OMWI also participates in credit union industry and league conferences promoting the benefits of conducting the self-assessment and the value of diversity and inclusion for credit unions.

Inclusion in all Levels of Business Activities

Section 342(c) of the Dodd-Frank Act directs each OMWI Director to "develop and implement standards and procedures to ensure, to the maximum extent possible, the fair inclusion and utilization of minorities, women, and minority-owned and women-owned businesses in all business and activities of the agency at all levels, including in procurement, insurance, and all types of contracts." When the NCUA first began tracking the participation of minority- and women-owned businesses in the agency's contracting opportunities in 2011, minority- and women-owned businesses represented 6 percent of the agency's vendors. Since implementing procurement guidance that promoted the inclusion of one-third minority- and women-owned businesses of all invited vendors, the agency has made consistent progress year after year. The agency achieved 45 percent minority- and women-owned business participation in its 2018 contracts.

Diversity in the Agency's Workforce

Section 342(f) of the Dodd-Frank Act directs each agency to "take affirmative steps to seek diversity in the workforce of the agency at all levels of the agency in a manner consistent with applicable law."

⁵⁶ Annual Voluntary Credit Union Diversity Self-Assessment, available at <https://cudiversity.ncua.gov/>.



NCUA
National Credit Union Administration

The NCUA has made progress toward greater diversity in its workforce. Over the last four years, the minority representation has improved each year, increasing from 26.32 percent to 29.74 percent over that period. The percentage of women and minorities at the executive level also has improved each year. Female representation in the executive ranks grew from 41.2 percent to 45.3 percent, while minority representation increased from 11.8 percent to 18.9 percent.

The NCUA has also implemented the following as part of our organizational diversity and inclusion efforts:

- Included diversity and inclusion as a strategic objective in agency strategic plan;
- Developed a five-year diversity and inclusion plan;
- Established a diversity advisory council;
- Provided annual diversity and inclusion training;
- Established a mentoring program;
- Maintained a student intern program;
- Participated in targeted diverse recruitment;
- Established a policy to use diverse interview panels when possible;
- Used structured interviews in examiner and senior staff interviews;
- Conducted annual adverse impact analysis on principal examiner testing;
- Provided unconscious bias training for all staff and additional training for managers;
- Included a diversity and inclusion element in all supervisor performance plans;
- Provided special emphasis programs for the following groups;
 - African American
 - Women
 - Asian
 - LGBTQ
 - Hispanic
 - Disability
 - Veterans
 - Native American
- Held monthly diversity discussions;
- Issued monthly diversity newsletters;
- Resurveyed the workforce to update disability status;
- Established employee resource groups; and
- Released annual policy statements from the NCUA Chairman reinforcing commitment to equal opportunity employment and diversity and inclusion in the agency's workforce, workplaces, and business practices.



NCUA
National Credit Union Administration

ii. The NCUA's Compliance with Section 308 of FIRREA as it Relates to MDIs

Minority depository institutions, or MDIs, play a crucial role in providing affordable financial services in areas that have been largely unserved or underserved by the traditional banking system. MDIs often are the only federally insured financial institutions in these areas.

MDIs-at-a-Glance⁵⁷

- 529 federally insured credit unions are designated as MDIs.
- MDIs are located throughout 37 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Texas, California, New York, Hawaii, Illinois, and Louisiana have the highest number of MDIs.
- Collectively, MDIs serve 3.9 million members and manage \$38.5 billion in assets. Texas, by far, has the highest number of members with more than 1.5 million followed by Hawaii, California, Maryland, and New Mexico. Hawaii, California, Maryland, New Mexico, the District of Columbia, and North Carolina, each have more-than \$1 billion in aggregate MDI assets.

The NCUA's MDI Preservation Program

A federally insured credit union may self-designate as an MDI through the NCUA's Credit Union Online Profile. The credit union must affirm that more than 50 percent of its current members, eligible potential members, and board of directors are from one of the four minority categories specified under the law. The NCUA relies on the definition of "minority" in Section 308 of FIRREA, which identifies an eligible minority exclusively as any Asian American, Black American, Hispanic American, or Native American.

The NCUA's most recent actions to preserve and promote MDIs include:

1. Preserving the present number of MDIs

The NCUA's MDI Preservation Program is designed to provide needed support to credit unions that serve communities and individuals who may lack access to mainstream financial products and services. The NCUA's examination staff work directly with credit unions on this program and the NCUA's Office of Credit Union

⁵⁷ Based on the Call Reports and Credit Union Online Profiles as of Dec. 31, 2018.



NCUA
National Credit Union Administration

Resources and Expansion (CURE) provides several support services.⁵⁸

- **Field of Membership Expansion:** During 2018, the NCUA approved the chartering and field of membership expansions for 28 MDIs. These approvals allowed the credit unions to add, in aggregate, more than 650 groups or expanded geographic areas to their memberships.⁵⁹
- **Increasing the Number of MDIs:** During 2018, the NCUA launched a social media campaign to identify new MDIs. The campaign coincided with Minority Enterprise Development Week.⁶⁰
- **Direct Feedback from MDIs:** The NCUA surveyed MDIs about the challenges of serving their members. Chief executive officers, managers, board members, and staff of MDIs responded to the survey, which was designed to ensure the agency's services are responsive to the needs of the credit unions consistent with Section 308 of FIRREA.⁶¹

2. Preserving their minority character in cases of merger or acquisition of a MDI

During 2018, 21 MDIs merged into other credit unions. Five of the continuing credit unions, 24 percent, were MDIs. MDI mergers represented 12 percent of all mergers of federally insured credit unions during 2018.⁶² In most cases, the NCUA's examination staff work directly with a credit union providing guidance to the board and management throughout a merger.

3. Providing technical assistance to undercapitalized credit unions

When a credit union becomes undercapitalized, it is required to develop a net worth restoration plan, subject to the NCUA's approval. The NCUA assists MDIs that are undercapitalized and subject to prompt correction action in developing these net worth

⁵⁸ CURE assumed responsibility for administering the NCUA's MDI Preservation Program in January 2018, as part of an [agency-wide restructure](#). Prior to that, the program was administered by the NCUA's OMWL. CURE fosters credit union development by offering support services to all credit unions. The resources particularly appeal to small and low-income designated credit unions and MDIs, and include: chartering and field of membership activities; grant and loan programs; the MDI Preservation Program; and training services.

⁵⁹ A credit union's field of membership represents the legal definition of who is eligible to join. A federally chartered credit union must receive approval from the NCUA prior to changing its field of membership. Excerpt from ["Field-of-Membership Expansion,"](#) Support Services section of the NCUA website, April 1, 2019.

⁶⁰ Minority Enterprise Development Week is a commemoration sponsored, in part, by the Minority Business Development Agency of the U.S. Department of Commerce.

⁶¹ The results of this survey were qualitative in nature and are not generalizable to the population of the study.

⁶² There were 34 fewer MDI credit unions at December 31, 2018 than at the end of the prior year. Mergers accounted for 62 percent of the decrease in the number of MDIs.



NCUA
National Credit Union Administration

restoration plans. Both CURE and examination staff work with credit unions in this area with the goal of restoring the credit union to an acceptable level of capital.

4. Promoting and encouraging the creation of new MDIs

CURE now administers the chartering of new credit unions. This was a key component of the recent agency-wide realignment. The realignment now makes it easier to coordinate the agency's work to encourage new credit unions, including MDIs. As detailed later in my testimony, one of my top priorities as the NCUA's new Chairman is enhancing and modernizing the federal credit union chartering process. It is my belief that enhancing and modernizing the federal credit union chartering process will encourage the creation of MDIs and promote greater financial inclusion.

5. Providing funding, technical assistance, training and educational programs

- **Funding:** Through its Community Development Revolving Loan Fund, the NCUA awarded 31 grants totaling \$284,200 to MDIs during 2018. This fund is unique among federal depository regulators and provides loans and grants to low-income credit unions as designated by the NCUA. These grants will assist the credit unions in their ability to provide financial products and services to approximately 133,850 members in aggregate, the majority of whom are minorities. Nine of the credit unions, almost 30 percent, were first-time recipients of the grant; 87 percent were small credit unions with assets below \$100 million.
- **Technical Assistance:** The NCUA qualified six MDIs through the NCUA-CDFI Certification Initiative during 2018. The Initiative began in 2016 between the NCUA and the U.S. Department of the Treasury's Community Development Financial Institutions (CDFI) Fund.⁶³ The initiative streamlines the qualification and application processes for low-income credit unions that qualify to be certified as a CDFI. The NCUA leverages existing data and processes the agency has as the primary regulator of federally insured credit unions. Once the NCUA determines a credit union qualifies for the streamlined application, it provides the credit union with information necessary to complete and submit a certification application to the CDFI Fund. The application requires less data and independent analysis than the traditional process. The CDFI Fund has the sole authority to determine an applicant's certification status.⁶⁴

⁶³ Joint Initiative Press Release: <https://www.ncua.gov/newsroom/Pages/news-2016-jan-community-development-financial-institutions.aspx>

⁶⁴ CDFI certification is the U.S. Department of the Treasury's recognition of specialized financial institutions serving low-income and economically disadvantaged communities. CDFI Certification



NCUA
National Credit Union Administration

Having the CDFI certification affords such organizations access to a variety of funding programs through the CDFI Fund. Such funding can enable a credit union to finance a range of activities, such as mortgage lending for first-time homebuyers and commercial loans.

- **Training and Educational Programs:** Training for credit union management, board members and staff can significantly influence the success of an MDI. This year, the NCUA will offer training targeted to MDIs on financial analysis/statement analysis and board of director responsibilities. During 2018, the agency updated its Learning Management Service, which provides online access to a variety of training topics such as credit union governance, operations, and products and services. The service offers on-demand learning opportunities and is available free of charge to all credit unions.

In March, the NCUA launched an educational series of semi-annual conference calls featuring topics of interest to MDIs. The first call entitled, “An Introduction to CURE,” provided an overview of the office and the services it offers to MDIs. The next call will occur during the third quarter of 2019.

e. Initiatives Aimed at Empowering Credit Unions to Better Serve the Underserved

America’s credit unions are on the frontline of providing affordable access and opportunity to the financial system. Credit unions play a critical role in helping families achieve the American dream of homeownership, assisting entrepreneurs in creating small businesses, and providing the trusted affordable and essential financial services so families can save for the future.

Promoting financial inclusion and shared prosperity in underserved communities is a priority of mine. I still fondly remember the joy and excitement I saw when a young woman who attended one of my bank’s homebuyer education classes learned that homeownership was not just a dream for her and her family. She was able to attend a series of homebuyer classes, build a credit profile and obtain down-payment assistance to purchase her first home. She showed her appreciation by inviting me to tour her new home and share a meal with her family.

As described below, the NCUA has developed initiatives to help create opportunities to promote financial education and financial inclusion, and foster an environment where the low-to-moderate income, people with disabilities, and the otherwise underserved have access to affordable financial services.

Eligibility Requirements: <https://www.cdfifund.gov/programs-training/certification/cdfi/Pages/default.aspx>



NCUA
National Credit Union Administration

Payday Alternative Loans

There continues to be persistent demand for short-term, small dollar loans. To provide credit union members with a safe and less expensive alternative to high-cost, traditional payday loans, the NCUA's regulations permit federal credit unions to offer small-dollar loans called payday alternative loans (PALs).⁶⁵ As of the end of 2018, 502 federal credit unions reported that they made PALs loans during the year. These credit unions reported making 211,574 loans amounting to \$145.2 million in PALs during the year. In comparison, in 2012, 476 federal credit unions reported that they made 115,809 loans amounting to \$72.6 million of lending during the year.⁶⁶

Credit unions can present consumers with a viable alternative to predatory lenders. In June 2018, the NCUA Board proposed amendments to the NCUA's PALs regulation to provide federal credit unions with an additional payday alternative loan option.⁶⁷ The new proposed payday alternative loan option (PALs II) would not replace the current payday alternative loan program (PALs I), but would serve as an additional market-based alternative. The proposed PALs II option has features to enable federal credit unions to meet the needs of certain borrowers not met by the current program and encourage additional federal credit unions to offer PALs.

The NCUA Board also sought public comment on a possible third option (PALs III), asking, in particular, for feedback on interest rates, maximum loan amounts, loan terms, and application fees.

Expanding Access to Affordable Financial Services

Small credit unions, low-income designated credit unions, and MDIs play a critical role in providing affordable financial services to millions of Americans. Often, these credit unions are the only federally insured financial institutions in underserved and rural communities. Yet, they face the challenges of increased competition, stagnant membership, and lagging earnings.

A critical component of NCUA's efforts to support these credit unions is the low-income designation. To qualify as a low-income designated credit union, a majority of a credit union's membership must meet certain low-income thresholds based on data available from the American Community Survey taken by the U.S. Census Bureau.

⁶⁵ 12 CFR 701.21(c)(7)(iii).

⁶⁶ 83 FR 25583 (June 4, 2018).

⁶⁷ *Id.*



NCUA
National Credit Union Administration

There are several benefits for credit unions that carry a low-income designation, including:

- An exemption from the statutory cap on member business lending, which expands access to capital for small businesses and helps credit unions diversify their portfolios;
- Eligibility for grants and low-interest loans from the Community Development Revolving Loan Fund;
- Ability to accept deposits from non-members; and
- An authorization to obtain secondary capital.

In 2018, the NCUA approved 18 community-charter conversions, the expansion of 53 existing community charters, and 16 expansions into underserved areas. The agency also approved the addition of 9,732 groups to the fields of membership of multiple common-bond credit unions.

The NCUA also issued one new federal credit union charter in 2018 to Everest Federal Credit Union in Jackson Heights, New York.

While I appreciate the agency's hard work in this area, one of my top priorities as the NCUA's new Chairman is enhancing and modernizing the federal credit union chartering process. The current processes for the de novo chartering, conversion, and expansion of federal credit unions is burdensome and time-consuming. I have directed staff to find meaningful ways to reduce the amount of time and the hurdles to chartering a new credit union. It is my belief that enhancing and modernizing the federal credit union chartering process to help individuals better understand the value of the federal credit union charter will encourage and enable the credit union system to better serve vulnerable communities, promote greater financial inclusion, and bring more people into the economic mainstream.

In this vein, next week, I will have the honor of presenting a new federal credit union charter that will serve a Native American community. This low-income credit union will provide much needed financial services to individuals and businesses in one of our nation's most underserved areas. This is just one example of credit unions doing what they can to help residents of rural areas and tribal lands, many of whom are unbanked or underbanked. Through their mission to serve the underserved, credit unions, such as the newly chartered one that I will visit next week, can help to ensure that those in rural areas and on tribal lands receive adequate financing for home loans and new housing construction in these areas. I am excited to continue working with my fellow Board Members and agency staff to explore all avenues within the NCUA's authority to increase access for unbanked and underbanked individuals to credit union products and services, including building upon the NCUA's already impressive financial literacy efforts.



NCUA
National Credit Union Administration

Empowering Consumers with Information to Make Independent and Informed Financial Decisions

While credit unions serve the needs of their members and promote financial capability within the communities they serve, the NCUA reinforces credit union efforts, and raises consumer awareness about the importance of saving and having a strong understanding of the concepts of financial literacy and personal finance.

The NCUA participated in 41 events, meetings, and conferences in 2018 reaching educators, financial literacy professionals, credit union officials, non-profit leaders, and other stakeholders. The NCUA also participated in national financial literacy initiatives, including the Financial Literacy and Education Commission, an interagency group created by Congress to improve the nation's financial literacy and education.

In December 2018, the NCUA launched an updated version of its consumer website, MyCreditUnion.gov, featuring a mobile responsive design, enhanced search functions, and improved navigation for easy access to consumer financial protection and financial literacy topics. By the end of the year, the English and Spanish-language versions of MyCreditUnion.gov had 865,195 visits, up 14.8 percent from 753,588 visits in 2017.

As discussed in greater detail below, there are a number of areas where Congressional action can help credit unions better serve the underserved and those of modest means.

III. Potential Areas for Beneficial Congressional Action

While the NCUA Board does its best to provide federally insured credit unions with meaningful regulatory relief to enhance credit union operations and encourage better service of those of modest means and the underserved, Congressional action can provide additional flexibility in some areas. Today, I would like to highlight three areas where Congressional action can provide new avenues for credit union growth and enhanced service, without sacrificing the safety and soundness of the credit union system. These include modifying the FCU Act's provisions related to field of membership, providing the NCUA Board the authority to set maximum loan maturities by regulation that exceed the Act's general 15-year limit, and taking action to provide greater flexibility related to the statutory cap on member business lending.

a. Field of Membership

The FCU Act currently permits only federal credit unions with multiple common-bond charters to add underserved areas to their fields of membership.⁶⁸ Modification to the FCU Act to permit all types of federally chartered credit unions to add underserved

⁶⁸ 12 U.S.C. 1759(c)(2)



NCUA
National Credit Union Administration

areas to their fields of membership would allow such institutions to offer financial services to those with no or limited access to federally insured financial institutions.

Specifically, federally chartered credit unions would greatly benefit from Congressional action to allow all federal charter types, not just multiple common-bond charters, to add a local community, neighborhood, or rural district that is an investment area and underserved, as determined by the NCUA Board, if the credit union establishes and maintains an office or facility within an underserved area. Allowing federal credit unions with a community or single common-bond charter the opportunity to add underserved areas would open up access for many more unbanked and underbanked households to credit union membership. This change also could enable more credit unions to participate in programs offered through the congressionally established CDFI Fund, thus increasing the availability of affordable financial services in distressed areas.

Additionally, several other statutory reforms to the FCU Act's field-of-membership provisions would enhance credit union operations, promote financial inclusion, and encourage better service of those of modest means and the underserved. These include:

- Allowing federal credit unions to serve underserved areas without also requiring those areas to be local communities;
- Simplifying or removing the "facilities" test for determining if an area is underserved;⁶⁹
- Eliminating the FCU Act's requirement that a multiple common-bond credit union be within "reasonable proximity" of the location of a group to provide services to members of that group;⁷⁰
- Granting explicit authority for web-based communities as a basis for a credit union charter, thus better recognizing the ways in which people share common bonds today; and
- Providing greater flexibility for low-income individuals to join federal credit unions, including by revising the FCU Act to allow the NCUA to permit federal credit unions to add anyone residing in a census tract where current estimates indicate he or she qualifies as low-income.

b. Loan Maturities

⁶⁹ The Federal Credit Union Act presently requires an area to be underserved by other depository institutions, based on data collected by the NCUA or federal banking agencies. 12 U.S.C. 1759(c)(2)(A)(ii). The NCUA has implemented this provision by requiring a facilities test to determine the relative availability of insured depository institutions within a certain area. Congress could instead allow the NCUA to use alternative methods to evaluate whether an area is underserved to show that although a financial institution may have a presence in a community, it is not qualitatively meeting the needs of an economically distressed population.

⁷⁰ See 12 USC 1759(f)(1).



NCUA
National Credit Union Administration

The FCU Act currently places a blanket 15-year maximum maturity on federal credit union loans.⁷¹ The Act provides several exceptions to this blanket maturity by permitting longer limits and providing the NCUA Board the authority to set alternate limits.⁷² However, these exceptions are limited. Notably, a residential real estate loan on a one-to-four-family dwelling that is *not* the primary residence of the borrower has a maximum maturity of 15 years. The same is true of member business loans and student loans. This greatly disadvantages federal credit unions and their members, including those who are already underbanked and underserved. Congressional action to provide the NCUA Board the discretion to set alternate maturity limits, such as would be granted by HR 1661, would provide a great deal of flexibility to the industry and allow them to better serve their members' needs, including those who are of modest means or underserved.

c. Member Business Lending

The FCU Act limits federally insured credit unions' member business loans to the lesser of 12.25 percent of assets or 1.75 times net worth, unless the credit union qualifies for a statutory exemption.⁷³ For smaller credit unions with the membership demand and the desire to serve the business segments of their fields of membership, the restriction makes it very difficult or impossible to successfully build a sound member business lending program. As a result, many credit unions are unable to deliver commercial lending services cost effectively, which denies small businesses in their communities access to an affordable source of credit and working capital.

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

The NCUA has done its best to provide federally insured credit unions with flexibility within the statutory limits. In 2016, the NCUA modernized its member business lending rule with that aim.⁷⁴ Additionally, just a few weeks ago, the NCUA entered into a memorandum of understanding with the U.S. Small Business Administration (SBA) to enhance cooperation in increasing credit unions' awareness and knowledge of

⁷¹ 12 U.S.C. § 1757(5).

⁷² *Id.* § 1757(5)(A)(i)-(iii).

⁷³ *Id.* § 1757a.

⁷⁴ 81 FR 13530 (Mar. 14, 2016).



NCUA
National Credit Union Administration

programs offered by SBA.⁷⁵ The partnership with SBA provides credit unions more opportunities to meet the credit needs of their small business members. The memorandum of understanding seeks to expand credit unions' understanding of, and participation in, SBA lending programs, including programs for certain SBA-guaranteed loans, which are statutorily exempted from the FCU Act's member business lending cap.⁷⁶ Both the NCUA and the SBA believe that credit unions are particularly well suited for expanding small business access to credit.

The NCUA is committed to doing everything it can to help credit unions leverage existing government loan programs so that they can provide additional capital to their small business members. Additionally, any Congressional action to provide additional flexibility under the member business lending cap would also be tremendously beneficial to the credit union industry and their small business members.

Should Congress choose to address any of these issues, I would welcome the opportunity to work with you. Thank you for the opportunity to provide an update on the strong state of the credit union industry and to detail the NCUA's recent and current initiatives and actions.

⁷⁵ See "NCUA/SBA Partnership Will Help Credit Unions Support Small Businesses," available at <https://www.ncua.gov/newsroom/press-release/2019/ncuasba-partnership-will-help-credit-unions-support-small-businesses>.

⁷⁶ 12 U.S.C. § 1757a(c)(1)(B)(iv).

**RESPONSE TO WRITTEN QUESTION OF CHAIRMAN CRAPO
FROM JOSEPH M. OTTING**

Volcker Rule

Q.1. In October 2018, six Republican Banking Committee Members and I wrote to your agencies expressing our support for your inter-agency efforts to revise the Volcker Rule. We also urged you to re-examine and tailor the Volcker Rule further, including by using the discretion provided by Congress to revise the definition of “covered fund” or include additional exclusions to address the current definition’s overly broad application to venture capital, other long-term investments and loan creation, and address concerns around the proposed accounting prong.

- What are the next steps for considering comprehensive revisions to the agencies proposed rule?

A.1. The next step is to issue a final rule addressing many of the comments received on the notice of proposed rulemaking that the five Volcker Rule agencies released last year. Agency principals, senior management, and staff are actively engaged in this rule-making, and we expect to issue a final rule in September 2019.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM JOSEPH M. OTTING**

Meeting Schedule

Q.1. Please provide to the Committee a detailed list of all meetings with individuals or groups not directly affiliated with the agency you serve, from the date of your confirmation by the Senate to present.

A.1. To be more efficient and avoid wasteful use of limited Government resources, I invite you to be more descriptive of any particular items you are interested in reviewing.

Leveraged lending

Q.2. In a letter dated May 13, 2019, I asked you to be prepared to share detailed responses to the leveraged lending questions in my April 11, 2019, letter to Financial Stability Oversight Council (FSOC) Chair Mnuchin and to provide supporting data to the Committee as part of your testimony. While I understand from the OCC’s and FDIC’s written testimony that they will continue to monitor leveraged lending risks, you did not provide information in response to my specific questions. Please provide detailed responses to the five questions in my May 13, 2019, and April 11, 2019, letters.

A.2. *Questions from May 13, 2019, and April 11, 2019, letter:* “. . . Regulators must demonstrate that they are responding to threats to financial stability before the real economy suffers. To that end, please provide me the following . . . ”

- 1.–3.** Any analyses of the leveraged lending market that the Council and its member agencies have performed in the last 2 years; any other Council documents discussing the risks of leveraged lending and staff recommendations to address those risks; and a list of all Council meetings

where leveraged lending was issued, including the dates of those meetings, attendees, and materials presented.

Response: The OCC regularly monitors sources of industry-prepared information on the leveraged lending market, including data on market volumes and trends, market participants, and lending terms and conditions. The OCC uses this information, together with supervisory findings from institutions within the Federal banking system, as a basis for discussions of risks within the OCC and with fellow regulators and regulated institutions. The information is also used to determine whether additional supervisory actions are warranted. This information supplements discussions held by the OCC's National Commercial Credit Committee (NCCC), which informs the OCC's National Risk Committee. Leveraged lending has been discussed at quarterly NCCC meetings over the past 2 years.

In addition, the OCC has discussed leveraged lending in the Spring 2019 and Fall 2018 *Semiannual Risk Perspectives*.

- The Spring 2019 *Semiannual Risk Perspective* is available at <https://occ.gov/news-issuances/news-releases/2019/nr-occ-2019-49.html>. See page 18.
- The Fall 2018 *Semiannual Risk Perspective* is available at <https://occ.gov/news-issuances/news-releases/2018/nr-occ-2018-131.html>. See pages 13–15 and 24.

The Treasury Secretary or FSOC staff are best positioned to address any FSOC documents discussing leveraged lending, staff recommendations, and lists of meeting dates, attendees, and materials.

4. A list of supervisory or other actions that the Council and its member agencies have taken at regulated institutions in order to address risks in the leveraged lending market, especially with regard to weak underwriting standards.

Response: The OCC, together with the Federal Reserve System and the Federal Deposit Insurance Corporation (the banking agencies), conducts semiannual Shared National Credit (SNC) examinations in the first and third quarters of the calendar year to provide a periodic credit risk assessment of the largest and most complex credit facilities owned or agented by supervised institutions. The 2018 SNC Report, prepared using the results from the 2018 reviews, concluded that risks associated with leveraged lending activities are building in contrast to the SNC portfolio overall. The SNC reviews in 2018 found that many leveraged loan transactions possess weakened transaction structures and increased reliance upon revenue growth or anticipated cost savings and synergies to support borrower repayment capacity. The January 2018 SNC Report is available at <https://occ.gov/news-issuances/news-releases/2019/nr-ia-2019-8.html>. The 2017 SNC

Report is available at <https://occ.gov/news-issuances/news-releases/2017/nr-ia-2017-90.html>.

The banking agencies issue a public report based on SNC findings on an annual basis. In addition, the OCC issues nonpublic bank specific supervisory letters or reports of examination to address findings related to leveraged lending. SNC results and other regulatory activities relating to leveraged lending are used to provide consistent messages to bankers and the banking industry.

The OCC continues to assess leveraged lending risk regularly through supervisory activities by applying safety and soundness principles and standards for prudent risk management. OCC findings show that banks have satisfactory risk tolerance, appropriate oversight activities, and adequate capital and appropriate loan loss allowance levels. Leveraged loan default and loss rates also remain low. Despite current indicators of banks' strong credit quality, the OCC remains concerned about weakened loan underwriting, particularly the declining presence of key covenants in first-lien leveraged loans and the existence of no-covenant loans.

The OCC is attentive to indirect potential risks affecting a leveraged borrower's ability to repay, including the indirect impact from a borrower's critical vendors or suppliers that are highly leveraged even when the borrower is not. The OCC is also concerned about the potential systemic impact associated with the broader credit market creating more risk than can be absorbed through normal market activities. The OCC expect banks not only to evaluate their individual role but also to additionally monitor market conditions that may indicate unacceptable levels of credit risk.

Notably, most of the lower-quality leveraged loan exposure is held outside of the regulated banking system where there is much less transparency, making it difficult for Federal banking supervisors to monitor and manage on a systemic basis.

5. A description of how FSOC is monitoring leveraged lending markets and what actions it plans to take to protect the economy from threats in credit and lending markets.

Response: The Treasury Secretary or FSOC staff are best positioned to address any FSOC documents discussing leveraged lending or staff recommendations. Please see responses to Questions 1, 2, and 3 above.

Leveraged lending guidance

Q.3. Vice Chair Quarles said during the hearing that your agencies are concerned about the right regulatory response to developments in underwriting of leveraged loans, and have identified underwriting practices that need to improve. How have you clarified to banks agency expectations for safe and sound underwriting practices if the 2013 leveraged lending guidance that describes expecta-

tions for the sound risk management of leveraged lending activities no longer has any legal effect? What are your current expectations?

A.3. While the 2013 guidance never had the force of law or rule, it continues to provide sound principles regarding prudent risk management practices associated with leveraged lending. The OCC has clarified to bankers and examiners that guidance should not be the basis of matters requiring attention or enforcement actions. OCC supervision continues to assess risk and apply safety and soundness principles and standards to banks' leveraged lending activities. We expect that banks will manage risk in a manner commensurate with the risk of their leveraged lending activities and portfolios.

CRA

Q.4. During the hearing in response to a question from Senator Cortez Masto you discussed an op-ed your Deputy Comptroller for Community Affairs wrote in March accusing "certain stakeholders" of distorting facts and making "misleading claims" that "hindered the constructive public dialogue about CRA reforms." You doubled down on the content of that op-ed in a speech to the Consumer Bankers' Association. You said that it was "folklore" that the OCC wanted to have one metric to measure CRA compliance, and that there was one group that spread that rumor. But the ANPR the OCC released asked five questions about a "metric-based framework approach," and in response to a question before this Committee during a previous hearing you said that the proposed ratio would start to make a CRA determination at a macro level.

Q.4.a. Do you think it is appropriate for a Federal agency to use its official platform to attempt to undermine the credibility of comments received in response to an open comment period outside of the formal Administrative Procedure Act process?

A.4.a. The OCC welcomes any and all comments related to improving CRA regulations and promoting CRA activity to help underserved populations. In our letter to Senator Cortez Masto (Attachment 1), the OCC detailed its concerns with inaccurate public statements made *outside* the rulemaking process that if left uncorrected would lead to additional confusion and misinformed perceptions.

Federal officials have a responsibility to correct inaccuracies of public statements and reports that undermine policies, programs, and activities that they are responsible for conducting. The OCC objects to those who mischaracterize the August 2018 Advanced Notice of Proposed Rulemaking (ANPR) by wrongly suggesting the ANPR proposed to weaken CRA. The OCC seeks to strengthen CRA and make the regulations work better for everyone. The ANPR sought comment on 31 questions which solicited input from all stakeholders on ways to improve CRA regulations.

The Op-Ed by the Deputy Comptroller for Community Affairs and my public statement corrected inaccurate *public statements* made in the press and online about the rulemaking process and the OCC's intentions related to modernizing Community Reinvestment Act regulations. Those misstatements were made in a variety of media and were not exclusive to comments received in response to

an open comment period outside of the formal Administrative Procedure Act process. Comments received in response to the ANPR will be addressed in accordance with the Administrative Procedure Act process.

Q.4.b. During the hearing, you told Senator Cortez Masto that the group that was the subject of the op-ed was putting out “false information.” Could you please detail what information you believe was false?

A.4.b. Our letter to Senator Cortez Masto (Attachment 1) lists the following examples of false claims made outside the rulemaking comment process regarding the OCC’s effort to modernize CRA regulations and the ANPR issued in August 2018 that include:

- False claims that the ANPR proposed “gutting” the Community Reinvestment Act, when the ANPR made no proposal at all;¹
- False claims that the OCC proposed a “single ratio” that would “water down requirements,” when no proposal had been made;^{2, 3}
- False claims that the OCC proposed to eliminate assessment areas and remove the role of branches;
- False claims that the OCC proposal intended to reduce CRA activity resulting in the losses of billions of dollars that was based on the notion of eliminating CRA eligibility entirely, which has never been proposed.^{4, 5}
- False claims that I have pursued an agenda to silence community voices by dismantling the CRA, when the agency and I have actively sought ideas and provided a means for formal input by all.⁶

Q.4.c. Please provide any other examples of a Federal regulatory agency attempting to publicly discredit the comments received during an open rulemaking before that agency had Formally addressed those comments through the Administrative Procedure Act process.

A.4.c. I am not familiar with other agencies rulemaking processes or actions, nor has the OCC attempted to discredit comments received in response to any rulemaking.

HMDA

Q.5. The last time you were before this Committee you told us that when the OCC starts a CRA exam, you review the institution’s HMDA data. The CFPB has proposed to eliminate HMDA reporting requirements for what the CFPB estimates will be more than 200

¹ See <http://calreinvest.org/press-release/california-community-groups-resist-trump-appointees-rollback-of-regulations-put-in-place-to-stop-redlining-and-discrimination/>.

² See <http://calreinvest.org/press-release/wall-street-and-big-banks-set-to-win-big-from-proposed-rollback-of-redlining-law/>.

³ See <https://www.nytimes.com/2018/08/28/opinion/trump-mortgage-redlining-cra.html>.

⁴ See <http://calreinvest.org/press-release/california-community-groups-resist-trump-appointees-rollback-of-regulations-put-in-place-to-stop-redlining-and-discrimination/>.

⁵ See <https://nrc.org/testimony-of-jesse-van-tol-ceo-national-community-reinvestment-coalition-april-9-2019-consumer-protection-and-financial-institutions-subcommittee/>.

⁶ See <http://calreinvest.org/press-release/crc-statement-on-joseph-otting-appointment-as-acting-director-of-ftfha>.

⁷ See “Real Estate Appraisals,” 83 FR 63110. December 7, 2018, available at <https://www.federalregister.gov/documents/2018/12/07/2018-26507/real-estate-appraisals>.

OCC-supervised institutions, and more than 1,700 institutions across all regulators.

In the absence of HMDA data, what other specific sources of data will provide you the information necessary to evaluate institutions' fair lending and CRA performance?

A.5. Non-HMDA reporting banks are required to identify and produce samples of mortgage loan files for review by examiners. Examiners then extract and analyze loan data from those files in order to evaluate CRA performance or assess compliance with fair lending laws.

Appraisals

Q.6. In December 2018, the OCC, the Federal Reserve, and the FDIC jointly proposed to increase their agencies' appraisal threshold on residential mortgage loans from \$250,000 to \$400,000.⁷ Lenders would instead be required to obtain an evaluation for any mortgage loan below \$400,000 not otherwise subject to requirements by the mortgage insurer or guarantor or the secondary market.⁸

This proposal comes less than 2 years after the OCC, the Federal Reserve, the FDIC, and the CFPB rejected an increase in the residential loan appraisal threshold based on "considerations of safety and soundness and consumer protection" in their Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) report.⁹ This proposal also goes far beyond legislation enacted by Congress to provide appraisal exemptions in rural areas.

As you know, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, requires the Federal banking regulators charged with setting appraisal exemption thresholds to receive concurrence from the CFPB to ensure that "such threshold level provides reasonable protection for consumers" before any amendment.¹⁰

Q.6.a. Did the Federal banking agencies confer with staff or leadership at the CFPB or seek CFPB's concurrence before issuing the proposal to increase the appraisal exemption threshold? If not, at what point in the regulatory process do Federal banking agencies seek concurrence with the CFPB on appraisal threshold changes?

A.6.a. The Federal banking agencies consulted with the CFPB throughout the development of the proposed rule. As a member of FDIC's board, the CFPB Director voted to adopt the proposed rule, reserving the bureau's statutory concurrence determination for the final rule. As the Federal banking agencies work toward completion of a final rule, we have continued to consult with the CFPB concerning the consumer issues and CFPB concurrence, and we will obtain CFPB's concurrence determination prior to finalization of

⁷ See "Real Estate Appraisals," 83 FR 63110. December 7, 2018, available at <https://www.federalregister.gov/documents/2018/12/07/2018-26507/real-estate-appraisals>.

⁸ *Id.*

⁹ Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act. Federal Financial Institutions Examination Council, March 2017. pg. 36, available at http://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.

¹⁰ 12 U.S.C. 3341(h).

any rule to increase the appraisal exemption threshold, as required by Title XI of FIRREA.

Q.6.b. In the background for the proposed rule, the Federal banking agencies stated they did not increase the residential real estate appraisal exemption threshold during the EGRPRA process because the change would have a “limited impact on burden reduction due to appraisals still being required for the vast majority of these transactions pursuant to the rules of other Federal Government agencies and the GSEs; safety and soundness concerns; and consumer protection concerns.”¹¹ Is your agency aware of any changes in the real estate market or in appraisal or evaluation services that would affect its safety and soundness or consumer protection concerns, cited in the EGRPRA report, with increasing the residential mortgage appraisal threshold above \$250,000? If so, please detail these changes.

A.6.b. After issuing the EGRPRA report, the agencies continued to receive comments from financial institutions and State-banking regulatory agencies about delays in the appraisal process and shortages of appraisers in certain regions of the country. In December 2018, the agencies issued a proposed rule to increase the appraisal threshold for commercial real estate transactions that specifically asked whether an increase in the residential appraisal threshold would provide meaningful regulatory relief.¹² Based on the comments received, and after an analysis of safety and soundness and consumer protection factors, the agencies reconsidered their earlier view and proposed an increase in the residential appraisal threshold to offer burden relief to financial institutions and consumers.¹³

¹¹ “Real Estate Appraisals,” 83 FR 63110, December 7, 2018.

¹² *Id.*

¹³ See “Real Estate Appraisals,” 83 FR 15019 (April 9, 2018)(final rule).



Office of the Comptroller of the Currency

Washington, DC 20219

May 21, 2019

The Honorable Catherine Cortez Masto
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510

Subject: Modernizing Community Reinvestment Act Regulations to Work Better for Everyone

Dear Senator Cortez Masto:

Thank you for your question regarding our work to strengthen Community Reinvestment Act regulations during the hearing on May 15, 2019. Because it is impossible to fully address such a topic in the five minutes, I want to provide additional detail on our work to ensure CRA continues to achieve its statutory purpose and encourages more lending, investment and services where they are needed most. I believe we have a once-in-a-generation opportunity to make CRA stronger by clarifying what counts for CRA credit, updating where credit is given that includes local geographies around bank branches as well as banks' broader customer footprints, creating an objective means for evaluating CRA performance, and making reporting more transparent and timely.

For most of my more than 30-year banking career, I worked for banks that strived and achieved an outstanding CRA rating. This rating is achieved by just 14 percent of the banks in our country. During this time, I also developed personal and professional relationships with many progressive leaders and community organizations, such as the National Diversity Coalition, Operation Hope, the National Asian American Coalition, AME Church, the Boys' and Girls' Clubs of America, and many others. I have personally served inner cities across America to improve the impact that the Community Reinvestment Act can have on these communities. As Comptroller, I have made that an agency priority.

I assure you that we are not attempting to stifle any stakeholder voice. To the contrary, we have made every effort to proceed in an inclusive and transparent manner and will continue to do so. We began this effort by meeting with more than 1,100 people from consumer and community groups, academics, trade associations, and banking industry. That feedback provided a great deal of insight into the opportunities that exist to improve the CRA and informed the Advanced Notice of Proposed Rulemaking (ANPR) issued on August 28, 2018.¹ The ANPR did not make any regulatory proposals. Instead, it presented 31 questions on a variety of issues and options that could reform the CRA framework, including one that asked stakeholders to tell us what issues we may have missed. The ANPR solicited input from all stakeholders—on all sides of the

¹ See <https://www OCC.gov/news-issuances/news-releases/2018/nr-occ-2018-87a.pdf>

debate—regarding any and all ideas and opinions about how regulators might strengthen and enhance the CRA framework. The ANPR is attached for your review.

We received approximately 1,500 comment letters with varied opinions and insights that otherwise would not have been available to regulators. Included among those comments were letters from the California Reinvestment Coalition (CRC) and the National Community Reinvestment Coalition (NCRC). The comments demonstrated broad agreement for modernizing CRA regulations including clarifying what receives credit, revisiting how assessment areas are defined, and making the process more objective and transparent. While those comments are available for all to read, we shared them with fellow regulators as we began to discuss policy options for achieving the four broad goals for improving how CRA works. The interagency process is underway. I am pleased by the universal agreement among the principals for working toward a common goal of issuing a Notice of Proposed Rulemaking later this year. As part of that effort, we plan to reach out to stakeholders again as we formulate our approach. When ready, we will publish the proposal for all to read and solicit comments by all stakeholders for 75 days.

We will then review those comments to inform the next steps in the rulemaking process.

This public discourse provides ample room for disagreement and competing views. It works best, however, when all parties engage honestly. When certain parties actively foster disinformation, it perverts the process and undermines public discourse, as pointed out in the article by Deputy Comptroller Barry Wides that you referenced during the hearing on May 15.²

Unfortunately, rather than engaging on the facts, CRC and NCRC knowingly repeated false information to scare others. Examples of false claims include

- Claims that the ANPR proposed “gutting” the Community Reinvestment Act, when the ANPR made no proposal at all;³
- Claims that the OCC proposed a “single ratio” that would “water down requirements,” when no proposal had been made;^{4 5}
- Claims that the OCC proposed to eliminate assessment areas and remove the role of branches;
- Claims that the OCC proposal intended to reduce CRA activity resulting in the loss of billions of dollars that was based on the notion of eliminating CRA eligibility entirely, which has never been proposed.^{6 7}

² See <https://www.americanbanker.com/opinion/setting-the-record-straight-on-cra-reform>

³ See <http://calreinvest.org/press-release/california-community-groups-resist-trump-appointees-rollback-of-regulations-put-in-place-to-stop-redlining-and-discrimination/>

⁴ See <http://calreinvest.org/press-release/wall-street-and-big-banks-set-to-win-big-from-proposed-rollback-of-redlining-law/>

⁵ See <https://www.nytimes.com/2018/08/28/opinion/trump-mortgage-redlining-cra.html>

⁶ See <http://calreinvest.org/press-release/california-community-groups-resist-trump-appointees-rollback-of-regulations-put-in-place-to-stop-redlining-and-discrimination/>

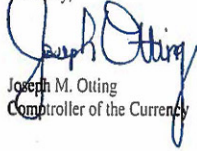
⁷ See <https://ncrc.org/testimony-of-jesse-van-tol-ceo-national-community-reinvestment-coalition-april-9-2019-consumer-protection-and-financial-institutions-subcommittee/>

- Claims that I have pursued an agenda to silence community voices by dismantling the Community Reinvestment Act, when the agency and I have actively sought ideas and provided a means for formal input by all.⁸

I invite the expertise and experience of these groups and hope to engage all stakeholders in an honest open matter as we move forward with the rulemaking to make CRA work better for all.

Prior to prejudging my actions or intent, I invite you to contact me for my opinion and allow me to provide a fuller perspective on the issues. I would also be happy to have you join me at the OCC for a breakfast or lunch meeting. As a Nevada resident and small business owner in Las Vegas, I am sure we would have much to discuss.

Sincerely,



Joseph M. Otting
Comptroller of the Currency

⁸ See <http://calcreinvest.org/press-release/crc-statement-on-joseph-otting-appointment-as-acting-director-of-rhfa/>

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR
MENENDEZ FROM JOSEPH M. OTTING**

Q.1. Earlier this year at an industry event in Los Angeles, you said that the OCC was taking the lead on writing a rule to rein in risky incentive-based compensation practices at large financial institutions that reward senior bank executives for irresponsible risk-taking.¹

A.1. In contrast to the characterization above, I stated I would work to fulfill our statutory obligation to issue an incentive-based compensation as required by the Dodd-Frank Act.

Q.1.a. Have you initiated meetings or outreach to any regulated institutions and stakeholders? If so, did any of these regulated institutions receive taxpayer bailouts during the financial crisis?

A.1.a. The OCC has not initiated any such meetings or outreach.

Q.1.b. Have you held meetings or solicited comments from any consumer or taxpayer advocates?

A.1.b. No. Comments will be solicited as part of the rulemaking process.

Q.1.c. Have all six financial regulators met to discuss rulemaking?

A.1.c. I have met with my counterpart at the SEC and discussed with the Federal Reserve Board and FDIC. I look forward to working with the heads of the other relevant agencies as we develop a proposed rule.

Q.2. I am also concerned that legal marijuana businesses will continue to find themselves unable to access insurance products, a necessity for those looking to secure financing.

Would it be helpful for Congress to consider the role of insurance companies as States move toward legalization?

A.2. The OCC would support a Federal legislative solution that would specifically address banking and other financial services (including insurance) provided to marijuana-related businesses operating in States where marijuana use is legal.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR ROUNDS
FROM JOSEPH M. OTTING**

Q.1. In my State of South Dakota, farmers, ranchers, energy producers, and others use derivatives to manage risks and fluctuating commodity prices. It is critical for these producers to have access to markets and products that are as competitive and cost-effective as possible. Not only does this benefit agriculture and energy producers, it also benefits American consumers across the country who depend on stable prices as they go about their daily lives.

Recently, the CFTC Commissioners submitted the attached joint comment letter in response to the SA-CCR proposed rulemaking, and I share in the concerns raised by these regulators who noted that, in its current form, the supplementary leverage ratios (SLR) “is working counterproductively, limiting access to derivatives risk

¹<https://www.politico.com/newsletters/morning-money/2019/04/30/trump-sues-banks-to-block-subpoenas-430188>.

management strategies and discouraging the central clearing of standardized swap products.”

The current SLR calculation fails to acknowledge the risk-reducing impact of client initial margin in its calculation, resulting in an inflated measure of the clearing member’s exposure for a cleared trade.

The SA-CCR rulemaking provides an important opportunity to address these concerns, and to work with your fellow regulators who directly monitor and regulate the derivatives markets.

Q.1.a. Have you reviewed the attached joint comment letter from the CEUC Commissioners?

A.1.a. The OCC did receive the comment letter from the CFTC Commissioners and is reviewing the concerns raised along with the other comments received on the notice of proposed rulemaking.

Q.1.b. Have you had any direct conversations with the CFTC Commissioners about this matter and the concerns they raised?

A.1.b. I do not recall having any direct conversations with the CFTC Commissioners on the concerns raised in their letter.

Q.1.c. Will you commit to continuing to work with your fellow regulators to address the concerns they have raised about the SLR moving forward?

A.1.c. Yes. OCC is committed to working with our fellow regulators to review the comments and consider the commentators’ concerns as we develop a final rulemaking for SA-CCR.

I strongly support the efforts of the CFTC Commissioners, who are in agreement that the SLR must acknowledge the risk-reducing impact of client initial margin in its calculation, and I urge you to continue working with your fellow regulators on this critical issue.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TILLIS FROM JOSEPH M. OTTING

Q.1. Your agencies regulatory approach to inter-affiliate margin transactions is an outlier. The margin requirements have the effect of locking up capital that could otherwise be used for economic growth and they discourage centralized risk management practices among firms. In addition, the current approach results in the movement of collateral out of the U.S. insured depository institutions. These are all suboptimal policy outcomes. Regulatory authorities in the European Union, Japan, and most other G20 jurisdictions each currently provide such an exemption for these transactions. You have indicated you are aware of the issue but, to date, I’ve seen no official action from your agencies to fix the problem.

The recognition for the need for an exemption began under regulators nominated by President Obama. In 2013, CFTC Chairman Gary Gensler provided an exemption for central clearing and trade execution. In 2015, CFTC Chairman Tim Massad provided an exemption, determining that initial margin was not warranted and it was a “very costly and not very effective way” to enhance risk management. Yet, your agencies did not provide an exemption from initial margin in the 2016 margin rules, and as a result, as of the end of last year, U.S. banking entities collected nearly \$50 billion in

initial margin from their own affiliates. In 2017, the Treasury Department noted that this rule puts U.S. firms at a disadvantage both domestically and internationally, recommending that your agencies provide an exemption consistent with the margin requirements of the CFTC.

Q.1.a. Do you agree that an exemption from initial margin is appropriate for inter-affiliate transactions?

A.1.a. Yes.

Q.1.b. Will you prioritize a rule to provide an exemption for inter-affiliate transactions, separate from any broader regulatory effort such as a Regulation W rewrite?

A.1.b. That is our intent.

Q.1.c. Please provide an explicit timeline for when your agencies will take action.

A.1.c. I anticipate completing this action this year.

Q.2. The reason a “Reg W” rewrite is suboptimal is that it will be counter-productive and slow. This capital needs to be released soon because we have geopolitical risk emerging over the world that could destabilize markets. If we have a Brexit, the number of entities will double and more capital will be unfairly sequestered. With potential trade volatility, Middle East uncertainty, and other risks, our banks need to be able to use capital for risk management, not have it trapped for no reason.

The Current Expected Credit Loss (CECL) accounting standard poses significant compliance and operational challenges for banks.

Q.2.a. Roughly how many of institutions that your agency supervises will be subject to the new CECL accounting standard?

A.2.a. Roughly 1,200 OCC-supervised institutions will be subject to CECL.

Q.2.b. What is the overall impact considering their nonbank and nonfinancial clients are also subject to the rule—considering the indirect impacts such as impairment of trade receivables pledged as loan collateral for a medium-sized business?

A.2.b. CECL does not affect a borrower’s cash-flows or the fair value of collateral; therefore, CECL should not affect how banks assess a borrower’s credit worthiness. We expect banks to continue to work with borrowers and serve their communities.

Q.2.c. There are many analyses publicly available related to the FASB’s CECL proposal, but none have an approximation for the number of U.S. GAAP filers who will be affected and the overall macro impact—does your agency know the covered universe?

A.2.c. FASB’s accounting standards apply to all entities that prepare financial statements in accordance with U.S. generally accepted accounting principles (GAAP). This includes approximately 5,400 FDIC-insured depository institutions.

Q.2.d. Are you confident that the banks you supervise are ready to implement CECL smoothly, given the balance sheet and operational costs involved?

A.2.d. We are actively monitoring institutions’ CECL implementation readiness through our supervisory process and welcome an

opportunity to discuss our assessment of the industry's overall readiness to implement CECL.

Q.2.e. Other than allowing the banks to integrate CECL reserves into regulatory capital over 3 years, are your agencies doing anything to assess the impact of CECL on the availability of financing?

A.2.e. Yes. We are actively monitoring the potential impact of CECL on the U.S. banking system, including the availability of financing. We continue to have ongoing dialogue with institutions, their auditors, industry groups, and third-party service providers, and conducted a series of educational outreach events since the standard was established. We welcome an opportunity to discuss our overall observations from these monitoring activities.

Q.2.f. Would you agree that a FASB accounting change should not result in either an increase or decrease in the loss absorbency a bank holds against any given loan?

A.2.f. Yes. While the OCC uses GAAP financial statements as a starting point for assessing an institution's financial condition, the final supervisory judgment on a bank's capital adequacy is based on an individualized assessment of numerous factors. Institutions should maintain capital commensurate with the level and nature of all risks to which the institution is exposed.

Q.3. According to a GAO report (May 2019) entitled "Bank Supervision: Regulators Improved Supervision of Management Activities but Additional Steps Needed," "enterprise governance and operations" constituted about 11 percent of all OCC MRA concerns. Similarly, internal reports from the U.S. Federal bank regulators for 2016 through 2017 showed that corporate governance issues were among the most common categories for issued supervisory concerns.

Q.3.a. In the interest of greater transparency and accountability in the supervisory process, including, with respect to how the agencies use guidance and employ their significant discretion in the examination process, please describe, on an anonymous basis, some examples of these MRAs, and the grounds on which such MRAs were determined to be warranted (*e.g.*, what laws, regulations and/or guidance were implicated and the risks posed by the corporate governance practice at issue).

A.3.a. MRAs regarding enterprise governance and operations can pertain to a bank's audit program, internal controls, financial reporting, board and management oversight, and other enterprise-wide weaknesses. Regulations such as 12 CFR 30 and 12 CFR 363 serve as the basis for many enterprise governance and operations MRAs.

Q.3.b. Please describe whether the Interagency Statement Clarifying the Role of Supervisory Guidance has had an impact on examination practices at your agency and, if so, explain how.

A.3.b. The OCC's practices already aligned with the approach explained in the Interagency Statement. Therefore, the Interagency Statement served as a reminder to OCC examiners, but did not have a significant impact on the OCC's supervision.

Q.3.c. Is there a review process at your agency to assure that there are no instances where examiners have wielded guidance, examination handbooks or policy statements with the power reserved for rules or laws (*i.e.*, basing MRAs or MRIAs or violations on them)?

A.3.c. Examination conclusions require review and approval by authorized OCC officials before conclusions are finalized and provided to the bank. The OCC's bank supervision quality management programs are designed to ensure that the agency achieves its objectives for bank supervision. Last, the OCC's bank appeals process provides bankers with an opportunity to appeal examination conclusions to the Ombudsman, who is independent of the bank supervision units.

Q.3.d. What assurance do you have that MRAs have not been based on guidance examination handbooks, or policy statements?

A.3.d. I am confident in the assurance provided by the OCC's review, quality management, and appeals processes.

Q.3.e. What type of study/survey/review could the agencies or industry permissibly conduct to assess whether examiners have wielded guidance, examination handbooks, or policy statements with the power typically reserved for rules or laws?

A.3.e. Such a survey or review is unnecessary based on the controls and quality review processes in place.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM JOSEPH M. OTTING

Q.1. On May 14, 2019, you sent me a letter about the Office of the Comptroller of the Currency's (OCC) plans to review the selection of a new Chief Executive Officer (CEO) and President at Wells Fargo bank.¹ In your letter, you informed me that the OCC would conduct a review of the new Wells Fargo CEO pursuant to the standards of 12 CFR 5.51—regulations, which outline the process by which the OCC can disapprove of the hiring of senior executive officials at banks in "troubled condition."² The OCC defines "troubled condition" as "a national bank or Federal savings association that . . . is subject to a cease and desist order, a consent order, or a formal written agreement, unless otherwise informed in writing by the OCC."³ Wells Fargo Bank, NA, is also subject to three open OCC consent orders from 2015, 2016, and 2018.⁴

Your letter also stated, however, that Wells Fargo was not technically subject to the requirements of 12 CFR 5.51. According to your letter, "[a]t the time of the November 2015 and September 2016 Consent Orders, the OCC generally did not subject banks to troubled condition-related regulatory consequences, including 12 CFR. 5.51, in cases where the enforcement addressed largely compliance-related deficiencies that did not significantly impact the

¹Letter from Joseph M. Otting, Comptroller of the Currency, to Senator Elizabeth Warren, May 14, 2019.

²12 C.F.R. § 5.51.

³*Id.*

⁴Letter from Joseph M. Otting, Comptroller of the Currency, to Senator Elizabeth Warren, April 3, 2019, <http://www.warren.senate.gov/imo/media/doc/2019.04.03%20OCC%20Response%20to%20Letter%20and%20CFPB%20re%20Wells%20Fargo%20Auto%20Lending%20Settlement.pdf>.

financial condition of the bank.”⁵ Then, in November 2017, the OCC “adopted a policy (PPM 5310–12) that formally aligned the OCC’s policy with that of other Federal banking agency’s regulatory definitions of troubled condition, which are more express in tying a troubled condition designation to the financial condition of the institution.”⁶ This policy applied to the April 2018 consent order against Wells Fargo.

PPM 5310–12 states that the “OCC’s general policy with respect to a bank subject to an enforcement action . . . is to inform the bank in writing that it . . . is not in troubled condition for purposes of 12 CFR 5.51 . . . unless the enforcement action requires the bank to take action to improve the financial condition of the bank.”⁷

Q.1.a. Why does the OCC limit the application of 12 CFR. 5.51 to banks facing an enforcement action requiring it to improve the bank’s financial condition?

Q.1.b. In your letter, you noted that the OCC’s policy under PPM 5310–12 aligns the OCC with the regulations of other Federal banking regulators, including the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve, that make clear that the term “troubled condition” refers to banks facing enforcement actions related to their financial condition.

Q.1.c. Does the OCC have plans to rewrite its regulations at 12 CFR 5.51 to more clearly align its regulations with other regulators, or will it continue to rely exclusively on PPM 5310–12 to justify its policy?

A.1.a.–c. Initially, it should be noted that the following statement from your question above is incorrect “In your letter, you informed me that the OCC would conduct a review of the new Wells Fargo CEO *pursuant to the standards of 12 CFR 5.51 . . .*” [emphasis added]. Rather, my May 14, 2019, letter (the Letter) to you explains how Wells Fargo Bank, NA (Bank) is subject to an April 2018 Consent Order from the OCC that amongst other things, “requires the Bank to obtain a prior written determination of no supervisory objection from the OCC with respect to the appointment of any individual as a senior executive officer, including the President and CEO.”

Additionally, the Letter explicitly states that: “As described in the Comptroller’s Licensing Manual, the OCC will disapprove an individual proposed as a senior executive officer if the OCC determines, on the basis of the individual’s ‘competence, experience, character, or integrity,’ that it would ‘not be in the best interests of the bank’s depositors or the public to permit the individual to be employed by’ the bank. This is also the standard of review for requests to appoint senior executive officers that are required to be filed under 12 C.F.R. § 5.51.” These statements from the Letter thus distinguish the actual actions the OCC will take pursuant to the 2018 Consent Order from your question’s conclusory statement “that the OCC would conduct a review of the new Wells Fargo CEO pursuant to the standards of 12 CFR 5.51.”

⁵*Id.*

⁶*Id.*

⁷OCC PPM 5310–12.

A bank that is in troubled condition for purposes of 12 CFR 5.51 is subject to requirements for changes in directors and for senior executive officers in 12 CFR 5.51 and restrictions on golden parachute payments in 12 CFR 359.⁸ As you noted, the OCC generally does not cause a bank to be in troubled condition for purposes of 12 CFR 5.51 as a result of an enforcement action unless the enforcement action requires action to improve the financial condition of the bank. This policy is in parity with the regulations of other Federal banking agencies and applies troubled condition restrictions to those institutions facing financial difficulties, which furthers the intended purposes of the troubled condition restrictions. The purpose of the regulation restricting golden parachutes is to limit and/or prohibit, in certain circumstances, the ability of insured depository institutions, their subsidiaries and affiliated depository institution holding companies to enter into contracts to pay and to make golden parachute and indemnification payments to institution-affiliated parties.⁹ This regulation thus operates to protect the capital of banks by preventing banks with limited capital from making payouts to executives when it cannot afford to do so. This policy also provides the OCC with flexibility to use other supervisory tools, such as enforcement actions, that allow more targeted and appropriate application of restrictions to those responsible for the regulatory problems.

The OCC is in the process of revising its definition of troubled condition at 12 CFR 5.51(c)(7) to align the OCC's definition of troubled condition with the definitions of troubled condition in regulations of the Federal Reserve and FDIC. A revision would provide greater clarity to OCC-supervised banks regarding when an enforcement action will cause the bank to be in troubled condition.

**RESPONSE TO WRITTEN QUESTION OF SENATOR MORAN
FROM JOSEPH M. OTTING**

Q.1. S. 2155 requires your agencies to establish a community bank leverage ratio (CBLR), which Congress envisioned as a single, simple capital standard that would provide small financial institutions with regulatory relief. However, the CBLR you have proposed includes revisions to the Prompt Corrective Action (PCA) framework, which would effectively raise the PCA thresholds for community banks who choose to comply with the CBLR.

Given the negative regulatory consequences triggered when banks fall below the various PCA thresholds, I'm concerned your proposal will actually discourage community banks from ever opting into the CBLR framework. Are there changes to your CBLR proposal that would make it less burdensome and more attractive for small community banks?

A.1. We have received a number of related comments regarding this aspect of the proposal and are considering those comments as we prepare a final rule. We intend to work closely with the other Federal banking agencies to develop a CBLR framework consistent

⁸A bank that is subject to the restrictions on golden parachute payments in 12 CFR 359 is required to obtain the approval of the OCC and, in most cases, the concurrence of the FDIC prior to making a golden parachute payment to any institutionalized party.

⁹61 Fed. Reg. 5930.

with EGRRPCA's objective of meaningfully reducing regulatory burden on community banking organizations while maintaining safety and soundness and the quality and quantity of regulatory capital in the banking system.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCHATZ
FROM JOSEPH M. OTTING**

Q.1. When you assess a bank's risk management strategy, how do you assess the increased risk of more frequent and severe natural disasters and extreme weather events?

A.1. The OCC expects financial institutions to have risk management programs that assess many forms of short- and long-term business interruptions, including disruption from extreme weather and other natural and manmade disasters. Resiliency of business operations is essential to the safety and soundness of a financial institution and the important role a bank plays in the larger financial market.

Q.2. Are you confident that the banks that you supervise are adequately pricing the cost of those increasing risks from climate change?

A.2. Pricing of risk includes many factors that may include the location and age of a property and risk to business models and operations. The OCC expects that the banks we supervise price products and services consistent with their respective business and risk management strategies.

Q.3. Do you know if the banks the OCC supervises are relying on historical trends when they evaluate the risks from extreme weather events?

A.3. Banks use many sources of data to evaluate business resiliency to include probabilities of events and trends.

Q.4. Does the OCC use or consider the data from the National Climate Assessment (NCA) as it conducts its supervisory work?

If yes, how? If no, why not?

A.4. The OCC does not use the NCA to conduct supervisory assessments. The OCC uses risk-based supervision unique to each institution, and we expect that supervised institutions implement appropriate risk management programs and practices to ensure the safety and soundness of the institution, fair customer treatment, and fair access to financial services, which includes resiliency.

Q.5. Do you think it would be useful to consider the NCA as a guide to the physical risks that could in turn pose economic and financial risks for the institutions that the OCC supervises?

A.5. There are many sources of data and analysis to assess economic and financial risks to institutions. The majority of banks have physically dispersed operations that may be affected by various events. Sound risk management practices require banks to consider physical threats to key operations and develop appropriate resiliency strategies.

Q.6. Have you attempted to quantify the financial risks from changes in the climate itself—not just episodic severe weather

shocks, but fundamental changes like high temperatures, drought, and sea-level rise?

If yes, how? If no, why not?

A.6. The OCC's core mission and expertise is to evaluate the safety and soundness of each supervised institution and identify potential financial systemic events. We will continue to leverage other recognized experts in various fields to assist in informing our view and potential responses to systemic risk issues.

Q.7. Do you think the financial institutions that the OCC supervises face risks from changes in the climate itself?

A.7. Financial institutions face a myriad of risks. The OCC requires banks to implement sound risk management systems that identify and respond to these risks based on their physical location(s) as well as financial risk on their balance sheet and their operations, and position in the financial market.

Q.8. I was encouraged by your response to my letter from January 25, 2019, that the OCC will monitor and take note of the Network for Greening the Financial System's progress report when it is published this year. That report came out in April 2019.

Q.8.a. Have you read the report?

Q.8.b. What steps or actions is the OCC taking in response to the report?

A.8.a.-b. OCC staff members have read the Greening the Financial System report. We will continue to monitor developments and recommendations made in the report.

Q.8.c. Will you consider joining the NGFS?

If yes, what is the timeline for making that decision? If no, why not?

A.8.c. The OCC is not considering joining NGFS. However, we will monitor NGFS developments and recommendations in collaboration with our regulatory counterparts, similar to our efforts to monitor the input and observations of many other groups.

Q.9. What can you commit to doing in the next 6 months to improve how you assess the financial risk of climate change?

A.9. OCC staff will evaluate various environmental assessments and market developments. We will assess financial institution risk assessments and resiliency plans for many types of short- and long-term risks.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM JOSEPH M. OTTING

Q.1. How are you improving the culture and strengthening the compliance division at the financial institutions you regulate, to ensure that Suspicious Activities Reports are being filed, fake accounts are not created, and customers are treated fairly? Do problems with incentive pay practices that incent staff to engage in fraud or unfair practices still exist at the financial institutions you regulate?

A.1. Compliance remains a priority for the agency, and compliance risk was identified as a key risk theme facing national banks and

Federal savings associations in our most recent *Semiannual Risk Perspective*. Specifically, compliance risk related to Bank Secrecy Act/antimoney laundering (BSA/AML) remains high. Banks are challenged to effectively manage money-laundering risks in a complex, dynamic global operating, and regulatory environment. BSA/AML compliance risk management systems should be commensurate with the risk associated with a bank's products, services, customers, and geographic footprint. The OCC's examiners perform BSA/AML supervisory activities during each supervisory cycle for every national bank and Federal savings association, as required by 12 U.S.C. 1818(s)(2). Examiners tailor examination plans and procedures based on the risk profile of each bank.

With regard to fake accounts, the OCC, in coordination with other Federal banking regulators, conducted a horizontal review of large and mid-sized banks to assess the sufficiency of controls with respect to these practices. The review began in October 2016, focused on sales practices related to consumer or small business deposit, loan, and private banking or wealth management product or service for which incentives are offered to employees.

The horizontal review did not identify systemic issues with bank employees opening accounts without the customer's consent. In those cases where the review identified bank-specific instances of accounts being opened without proof of customer consent, the underlying root causes varied. Most common factors included either short-term sales promotions without adequate risk controls, deficient account opening and closing procedures, or isolated instances of employee misconduct with no clear connection to sales goals, incentives, or quota programs.

Q.2. Will you ensure access to information from community reinvestment advocates through the Freedom of Information Act with timely responses and without requiring high fees?

A.2. The OCC will continue to comply with the Freedom of Information Act and applicable policies regarding fees and fee waivers.

Q.3. There has been an epidemic of fake comments on controversial issues. How will you ensure that comments on rules and mergers are accurate and not based on stolen identities?

A.3. The OCC is not familiar with data suggesting an "epidemic of fake comments on controversial issues" and would welcome the opportunity to review such data. While the OCC cannot control the advocacy techniques and letter-writing practices used by many, the agency reviews each letter submitted. Identical letters, often the result of form letters, typically do not present additional new information and are easily grouped together in responding to those comments.

Q.4. Recently, the Office of Management and Budget released a memorandum reinterpreting the Congressional Review Act to include independent regulatory agencies, many of which are your agencies. What would be the impact of requiring OMB review of proposed rules and guidance on your agency?

A.4. We are in the process of reviewing the impact of the memo.

Q.5. When considering bank mergers, will you commit to ensuring that advocates seeking investments for working-class communities

are able to easily comment at the time of the merger and are not relegated to a separate Community Reinvestment Act process?

A.5. The OCC will continue to comply with requirements of the Community Reinvestment Act and the Bank Merger Act, and will follow the procedures and standards set forth in its regulations, 12 CFR part 5, subpart C. Under these processes and standards, merger applicants provide public notice of the filing of their applications, and the public may submit comments to the OCC. The OCC then reviews any public comments received and addresses them through the licensing or supervisory process, as appropriate.

Q.6. Please provide letters sent by staff of the Office of the Comptroller of the Currency to individual commenters or organizations disputing comments the individual or organization submitted in response to a proposed rulemaking. Please include any letter sent by OCC leadership to a commenter on a proposed rule in which the OCC disputed the interpretation of the rule by a commenter over the past 20 years.

A.6. The OCC does not send substantive responses to comments submitted during the rulemaking process. Instead, the OCC addresses the substance of comments in the preamble of a proposed or final rule. The OCC may provide updates on the procedural status of rulemakings in response to inquiries from interested persons. For example, the OCC routinely, in writing, acknowledges receipt of comments from members of Congress and provides updates on the status of rulemakings (*e.g.*, the agency is considering comments; the agency issued a final rule). The agency may correspond with any group regarding issues or comments made outside the rulemaking process and will correct inaccurate information, misstatements, or misunderstandings when appropriate.

Q.7. Please provide any articles, opinion pieces, or editorials in a non-OCC publication written by staff of the Office of Comptroller of the Currency, criticizing comments submitted by an outside organization in response to a proposed rulemaking. Please share any opinion pieces published in a newspaper or journal independent of OCC control in the past two decades, in which a senior OCC leader complained that a commenter or commenters on the rulemaking process was misinformed or incorrect in their assessment of an OCC proposed rule.

A.7. The OCC has published no article nor made any other criticism of comments submitted in response to a formal rulemaking. The article by Deputy Comptroller of the Currency Barry Wides, which was published in the *American Banker* on March 25, 2019, responded to inaccurate public comments made in the press, online, and in other public settings. The article is available at <https://www.americanbanker.com/opinion/setting-the-record-straight-on-cra-reform>.

Q.8. The most recent National Climate Assessment said the U.S. Southwest could lose \$23 billion per year in region-wide wages as a result of extreme heat. Are you looking into how extreme heat will affect the economy of the Southwest, and how that will impact regional financial institutions?

A.8. Resiliency of business operations is essential to the safety and soundness of a financial institution and the important role a bank plays in the larger financial market. The OCC expects financial institutions to have risk management programs that assess many forms of short- and long-term business interruptions such as extreme weather and natural and manmade disasters. The agency is reviewing what additional consideration and analysis to conduct regarding such risks.

Q.9. As you conduct your supervisory work, are you taking into account the evidence that extreme heat is going to get worse?

A.9. OCC staff will continue to evaluate environmental assessments and market developments. We will continue to assess financial institution risk assessments and resiliency plans for many types of short- and long-term risks, including extreme weather and natural and manmade disasters.

Q.10. What is the status of the Consumer Law Division within the Office of the Comptroller of the Currency? What changes have been made to that office since you took the helm of the agency?

A.10. In March of 2019, the Consumer Law Division, along with three other groups—Legislative Regulatory Activities Division, Securities and Corporate Practices Division, and Bank Activities and Structure Division—were unified into one new group: the Bank Advisory group. This was done as part of the first reorganization of the Chief Counsel’s Office of the Office of the Comptroller of Currency since 1992. This reorganization ensures the Chief Counsel’s Office is aligned with the strategic goals and mission of the OCC so that the office can effectively and efficiently meet the current and future legal and supervisory needs of the agency.

Q.11. Please detail how the Office of the Comptroller of the Currency has cut \$100 million in its costs. Please detail how the OCC proposes to cut \$20 million this year.

A.11. The OCC reduced its costs by \$100 million by optimizing travel, eliminating unused and unneeded space to reduce its real estate costs, renegotiating service contracts and eliminating redundant or unnecessary services, and eliminating overlapping functions. We are also on track to reduce our costs by \$20 million by continuing that effort of being more efficient.

Q.12. How many financial institutions are participating in the small-dollar lending pilot? What has been the impact of the pilot? What type of products are they offering?

A.12. There is not an agency-sponsored small-dollar lending pilot program. On May 23, 2018, the OCC issued Bulletin 2018–14: Core Lending Principles for Short-Term, Small-Dollar Installment Lending, encouraging national banks and Federal savings associations to offer responsible short-term, small-dollar installment loans.

Q.13. Please provide a list of the “more than 1,100 people from consumer and community groups, academics, trade associations, and banking industry” that the OCC met with to discuss changes to the Community Reinvestment Act. Please share which meetings you attended and which were attended by other OCC staff. Please report which staff member met with which groups or individuals.

Please note whether the meetings were individual, as in one entity or association, or group meetings.

A.13. The following is an inexhaustive list of groups that met to discuss CRA modernization with OCC officials, including the Comptroller, Senior Deputies and staff:

- Affordable Housing Developers Council
- Affordable Tax Credit Coalition
- American Bankers Association
- Americans for Financial Reform
- Association for Enterprise Opportunity
- Association for Neighborhood & Housing Development (ANHD)
- California Bankers Association
- California Reinvestment Coalition
- Center for Financial Services Innovation
- Center for Responsible Lending
- Community Development Bankers Association
- Community Housing Works
- Conference of State Bank Supervisors
- Connecticut Bankers
- Consumer Bankers Association
- Delaware Bankers
- Economic Innovation Group
- Enterprise Community Partners
- Financial Services Forum
- Florida Bankers Association
- Georgia Bankers Association
- Housing Assistance Council
- Housing Partnership Network
- Idaho Bankers Association
- Independent Community Bankers Association
- Indiana Bankers
- Iowa Bankers
- Junior Achievement
- Kansas Bankers
- Kentucky Bankers Association
- Kresge Foundation
- Latino Economic Development Center
- Local Initiatives Support Corporation (LISC)
- Los Angeles World Affairs Council
- Louisiana Bankers
- Maine Bankers
- Maryland Consumer Rights Coalition (MCRC)
- Maryland Bankers
- Massachusetts Bankers
- Michigan Bankers Association

- Missouri Bankers
- NAACP
- National Asian American Coalition
- National Association of Affordable Housing Lenders (NAAHL)
- National ATM Council
- National Center for Digital Equity
- National Community Reinvestment Coalition (NCRC)
- National Council of State Housing Agencies
- National Disability Institute
- National Diversity Coalition
- National Financial Corporation
- National Foundation for Credit Counseling
- National Housing Conference
- National NeighborWorks Association
- National Trust Community Investment Corporation (NTCIC)
- National Urban League
- Native American Finance Officers Association
- Nevada Bankers Association
- New Hampshire Bankers
- New Jersey Bankers
- New York Bankers Association
- North Carolina Bankers
- Ohio Bankers League (Ohio Bankers)
- Oklahoma Bankers
- Operation Hope
- Opportunity Finance Network (OFN)
- Oregon Bankers Association
- Pennsylvania Bankers
- Prosperity Now
- Reinvestment Partners
- Rhode Island Bankers
- Tennessee Bankers
- The Clearing House/Bank Policy Institute
- U.S. Chamber of Commerce
- U.S. Pan Asian American Chamber of Commerce
- Unidos US
- Urban Revitalization Coalition
- Vermont Bankers
- Vermont Municipal Bond Bank
- Veterans Association of Real Estate Professionals
- Western States Bankers Association
- Washington Bankers
- Woodstock Institute
- The Comptroller and staff also has met with numerous members of Congress and their staffs from both parties.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SMITH
FROM JOSEPH M. OTTING**

Q.1. Almost a year ago, the OCC announced that they would begin accepting applications for special purpose national bank charters from fintech companies that are engaged in some banking activities. I have some concerns about how this might increase predatory lending risks if this new charter is widely used.

Q.1.a. Should we be worried about how this national charter would preempt State consumer protection law's?

A.1.a. No. State consumer financial laws apply to a special purpose national bank in the same way and to the same extent as they apply to a full-service national bank. As discussed in the "OCC Policy Statement on Financial Technology Companies' Eligibility to Apply for National Bank Charters," a fintech company, if granted a national bank charter, would be subject to the same high standards of safety and soundness and fairness as all federally chartered banks as well as, among other expectations, a commitment to financial inclusion and contingency planning. Applications containing proposals for financial products and services that have predatory, unfair, or deceptive features or that pose undue risk to consumers, would be inconsistent with law and policy and would not be approved by the OCC.

Q.1.b. Why do you think more fintech companies haven't applied for this charter in the past year?

A.1.b. Some fintech companies engaged in the business of banking may be temporarily deterred by ongoing litigation. Other fintech companies have considered other national bank charter options, such as a full-service national bank charter, in addition to State licenses and charters and offering their products and services through partnering with other existing banks.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA
FROM JOSEPH M. OTTING**

Q.1. Cybersecurity is a chief concern for U.S. financial institutions and the agencies that regulate them. What is your assessment of the current examination process and regulatory landscape for regulated institutions with respect to cyber?

A.1. Cybersecurity continues to be a significant area of concern for the Federal banking system. Banks and savings associations are generally taking appropriate steps to safeguard their institutions from cybersecurity threats, however, the continuously changing threat landscape requires banks to continually reassess and update security controls keeping cybersecurity risk at a high level.

To effectively supervise for this risk, the OCC has established a robust cybersecurity supervision program. Every institution is assessed for cybersecurity preparedness as part of the standard 12-to 18-month supervision cycle. Key components of the supervision process include:

- Each bank receives an Information Technology examination rating. Information security is a key component of the IT rating.

- The OCC conducts a cybersecurity assessment as part of each IT examination, leveraging the FFIEC Cybersecurity Assessment Tool (CAT) in our supervision program.
- In the event concerns are noted during cybersecurity assessments, the OCC has a number of supervision tools to ensure appropriate corrective actions are taken, including Matters Requiring Attention and informal and formal enforcement actions.

As cybersecurity is a continually evolving risk with a constantly changing external threat environment, the OCC maintains a dedicated critical infrastructure team that is responsible for ongoing monitoring of cybersecurity threats to inform supervisory policy.

Q.2. How can Federal agencies improve and help harmonize cybersecurity regulations?

A.2. The OCC collaborates very closely with our domestic and international counterparts on working to better improve and harmonize cybersecurity supervision and guidance. Examples of this collaboration include:

- The OCC most closely coordinates with our fellow financial institutions supervisors as part of the FFIEC. The FFIEC has developed a joint IT Examination Handbook and jointly developed the FFIEC CAT to ensure consistency and harmonization of supervisory approaches. In addition, the FFIEC sponsors the Cybersecurity and Critical Infrastructure Working Group (CCIWG) which is an interagency working group focused on monitoring cybersecurity threats and sharing information among FFIEC members.
- The OCC coordinates with other U.S. financial sector agencies through Financial and Banking Infrastructure Information Committee (FBIIC) sponsored by U.S. Treasury. The FBIIC has been focused on harmonization of supervisory approaches for cybersecurity across the broader U.S. financial sector regulatory community.

The OCC is also active in international bodies that are focused on cybersecurity. The OCC participates on the Basel Committee on Banking Supervision's Operational Resilience Group which is focused on different international approaches to cybersecurity supervision in the global banking sector.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN CRAPO FROM RANDAL K. QUARLES

Stress Testing

Q.1. The Federal Reserve recently finalized a set of changes to improve the transparency of and models used in stress testing. In March 2019, the Federal Reserve also released the Dodd-Frank Act Stress Test 2019 Report, which aimed to further increase the transparency of supervisory models and improve stress-testing results. A critical aspect of S. 2155 was tailoring regulations for banks with between \$100 billion and \$250 billion in total assets, particularly with respect to the stress-testing regime.

What more can the Federal Reserve do to tailor the stress-testing regime for banks with between \$100 billion and \$250 billion in total assets, and to further improve transparency into the Federal Reserve's stress-testing models?

A.1. The Federal Reserve Board (Board) invited public comment on a framework that would more closely match regulations for large banking organizations with their risk profiles.¹ We have received comments on the proposal and are considering the most appropriate methods for tailoring our regulations, including those relating to the stress-testing regime for the largest firms.

The enhanced disclosure of our supervisory models represented a considerable increase in the transparency of the stress-testing regime. The disclosure provides the public with more information about the models but should not give firms enough information for banks across the system to simply “clone” the Board's models in ways that could lead to an accumulation of risks around the errors and idiosyncrasies of those models. I believe that the recent disclosure of our supervisory model methodology strikes a good balance between the benefits of enhanced transparency and the risks associated with providing firms too much detail about our models.

Specifically, this disclosure contained more detailed descriptions of supervisory models, including important equations and lists of key variables that influence the results of the models. For the corporate loan and credit card portfolios, the disclosure also included modeled loss rates grouped by distinct risk characteristics, portfolios of hypothetical loans, and the Federal Reserve's estimated loss rates associated with the loans in each hypothetical portfolio. Similar information will be provided in 2020 for two additional material loan portfolios. The Board intends to continue to publish enhanced modeled loss rate disclosures for the most material loan portfolios over the next several years at an expected rate of about two per year. Over time, the Federal Reserve will extend enhanced modeled loss rate disclosures to nonloan portfolios, such as securities. Finally, as part of our June 2019 Dodd-Frank Act Stress Test results publication, we disclosed, for the first time, projections of pre-provision net revenue components, including net interest income, noninterest income, and noninterest expense.

We continue to seek feedback on our stress tests from a wide range of stakeholders and consider options for providing additional transparency around the supervisory stress tests. We hosted a conference in July that convened a mix of presenters with industry, academic, and regulatory backgrounds to discuss the transparency and effectiveness of stress testing. The Board also is currently considering options to provide additional transparency around the design of the stress-test scenarios, which is a key driver of stress-test results.

Internal TLAC

Q.2. In 2017, the Financial Stability Board (FSB) issued a document on “Guiding Principles on the Internal Total-Loss Absorbing Capacity of G-SIBs (Internal TLAC). As you are aware, a key

¹ See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181031a.htm> and <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190408a.htm>.

objective of the TLAC standard is to provide home and host authorities with confidence that G-SIBs can be resolved in an orderly manner without putting public funds at risk. The FSB has noted that this “should diminish any incentives on the part of host authorities to ring-fence assets domestically . . . and therefore avoid the adverse consequences of such actions, including the global fragmentation of the financial system” Internal TLAC is the loss-absorbing capacity that resolution entities have committed to their subsidiaries. The FSB requires each material sub-group/subsidiary must maintain internal TLAC of 75–90 percent. The Fed has set their internal TLAC calibration at the higher end, 89 percent.

During a speech in May 2018, Vice Chair Quarles, you noted that “. . . . I believe we should consider whether the internal TLAC calibration for IHCs could be adjusted to reflect the practice of other regulators without adversely affecting resolvability and U.S. financial stability. The current calibration is at the top end of the scale set forth by the FSB, and willingness by the United States to reconsider its calibration may prompt other jurisdictions to do the same, which could better the prospects of successful resolution for both foreign G-SIBs operating in the United States, and for U.S. G-SIBs operating abroad.”

What are your next steps for considering whether internal TLAC requirements should be adjusted to be consistent with other regulators?

A.2. The Board is monitoring developments closely in other jurisdictions related to the implementation of internal total loss-absorbing capacity (TLAC). For example, in April 2019, the European Union (EU) adopted a final regulation that requires subsidiaries of foreign G-SIBs operating in the EU to meet internal TLAC requirements calibrated at the 90 percent level (EU internal TLAC regulation).² This is slightly higher than the internal TLAC requirement the Board has imposed on local subsidiaries of foreign G-SIBs operating in the United States (89 percent). In addition, in mid-2018, the Bank of England issued a policy statement clarifying that internal TLAC would be scaled flexibly for the foreign subsidiaries of G-SIBs operating in the United Kingdom in the 75 to 90 percent range, depending on the reciprocal level of calibration in the firm’s home jurisdiction and other factors.³

In addition, Board staff are reviewing the calibration of internal TLAC for foreign G-SIBs operating in the United States. Further, the Financial Stability Board (FSB), which I chair, is looking at issues related to market fragmentation, including implementation of standards such as internal TLAC across jurisdictions. As part of this ongoing initiative, the FSB delivered a report on the potential implications of market fragmentation to the G20 this year, and has

² See Article 92b, “European Parliament legislative resolution of 16 April 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements and amending Regulation (EU) No 648/2012,” (Apr. 16, 2019), http://www.europarl.europa.eu/doceo/document/TA-8-2019-0369_EN.pdf.

³ See “The Bank of England’s approach to setting a minimum requirement for own funds and eligible liabilities (MREL),” (June 13, 2018), <https://www.bankofengland.co.uk/-/media/boe/files/paper/2018/policy-statement-boes-approach-to-setting-mrel-2018.pdf?la=en&hash5DE6B6F258D5E9835F9CA6261A9050BFC666D8C4>.

scheduled a workshop in late September, where issues related to prepositioning of resources across jurisdictions will be discussed further. Staff are actively involved in international discussions on these topics and continue to review the calibration of internal TLAC for foreign G-SIBs operating in the United States.

The Volcker Rule

Q.3. In October 2018, six Republican Banking Committee Members and I wrote to your agencies expressing our support for your inter-agency efforts to revise the Volcker Rule. We also urged you to re-examine and tailor the Volcker Rule further, including by using the discretion provided by Congress to revise the definition of “covered fund” or include additional exclusions to address the current definition’s overly broad application to venture capital, other long-term investments and loan creation, and address concerns around the proposed accounting prong.

What are the next steps for considering comprehensive revisions to the agencies’ proposed rule?

A.3. Since proposing amendments to the regulations implementing the Volcker Rule in 2018, the Office of the Comptroller of the Currency, the Board, the Federal Deposit Insurance Corporation (FDIC), the Securities and Exchange Commission, and the Commodity Futures Trading Commission (collectively, the agencies) have held meetings with and received comments from interested parties regarding the treatment of covered funds and the definition of a trading account under the proposal. The agencies are currently in the process of carefully considering all comments received on the proposal, including those related to the covered fund provisions and the trading account definition. On August 19, 2019, the FDIC adopted a final rule addressing many of these comments. The Board will consider this rule for adoption in the near future. In addition, the Board is considering issuing a separate notice of proposed rulemaking related to the covered funds provisions of the Volcker Rule.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM RANDAL K. QUARLES

Meeting Schedule

Q.1. Please provide to the Committee a detailed list of all meetings with individuals or groups not directly affiliated with the agency you serve, from the date of your confirmation by the Senate to present.

A.1. Please see the attached as requested.

Leveraged lending

Q.2. In a letter dated May 13, 2019, I asked you to be prepared to share detailed responses to the leveraged lending questions in my April 11, 2019, letter to Financial Stability Oversight Council Chair Mnuchin and to provide supporting data to the Committee as part of your testimony. While I understand from the OCC’s and FDIC’s written testimony that they will continue to monitor leveraged lending risks, you did not provide information in response to

my specific questions. Please provide detailed responses to the five questions in my May 13, 2019, and April 11, 2019, letters.

A.2. Questions from May 13, 2019, and April 11, 2019, letter: “. . . Regulators must demonstrate that they are responding to threats to financial stability before the real economy suffers. To that end, please provide me the following . . .”

1. Any analyses of the leveraged lending market that the Council and its member agencies have performed in the last 2 years;

Response: The Federal Reserve has provided oversight of leveraged loans in supervised institutions for many years, and continues to dedicate substantial resources to monitor these loans carefully and to supervise institutions with leveraged loan exposures closely through processes such as the Shared National Credit (SNC) review. In addition, Federal Reserve staff performs ongoing analysis to assess and understand the risks within the broader leveraged lending market. Our analysis has included quantifying bank holdings of leveraged loans and assessing the direct and indirect exposures of large banking institutions from their participation in all aspects of the leveraged loan market.

Our analysis of the broader market seeks to understand investor appetite for corporate credit risk, the contribution of leveraged lending to the elevated level of business debt, and the resilience of the nonbank structures that hold leveraged loans. This work incorporates information on the terms and underwriting standards of newly originated loans, the financial condition of U.S. businesses, and regulatory and other data on a range of non bank financial institutions. These analyses appear in a variety of Federal Reserve publications, including the Monetary Policy Report and, most comprehensively, the Financial Stability Report (FSR) in the following locations:

- The November 2018 FSR¹ discusses leveraged lending in Section 1 (Asset Valuation Pressures), Section 2 (Borrowing by Businesses and Households), Section 3 (Leverage in the Financial Sector), and Section 4 (Funding Risk).
- The May 2019 FSR² discusses leveraged lending in Section 1 (Asset Valuations), Section 2 (Borrowing by Businesses and Households), Section 3 (Leverage in the Financial Sector), and Section 4 (Funding Risk). In addition, the box on pages 22–25 discusses how exposures of financial institutions to business debt including leveraged loans could amplify strains in the financial system in times of stress.

As mentioned above, the SNC program is a key supervisory program employed by the Federal Reserve and the other Federal banking agencies to ensure the safety and

¹See <https://www.federalreserve.gov/publications/files/financial-stability-report-201811.pdf>.

²See <https://www.federalreserve.gov/publications/files/financial-stability-report-201905.pdf>.

soundness of the financial system. SNC is a long-standing program used to assess credit risks and trends, as well as underwriting and risk-management practices associated with the largest and most complex loans shared by multiple regulated financial institutions. The program also provides for uniform treatment and increased efficiency in shared credit risk analysis and classification.

Leveraged lending accounts for a substantial portion of the SNC portfolio and remains a key focus in the Federal Reserve's broader effort to evaluate overall safety and soundness of bank underwriting and risk management practices. SNC reviews completed in the first and third quarters of 2018 showed risks associated with leveraged lending activities are building, as contrasted with the SNC portfolio overall. Although the specific measures we have taken are confidential supervisory information, addressing these weaknesses has been an important element of our supervisory engagement with the subject firms in these SNC exams.

2. Any other Council documents discussing the risks of leveraged lending and staff recommendations to address those risks;

Response: We refer you to the U.S. Department of the Treasury for a response to this question.

3. A list of all Council meetings where leveraged lending was discussed, including the dates of those meetings, attendees, and materials presented;

Response: We refer you to the U.S. Department of the Treasury for a response to this question.

4. A list of supervisory or other actions that the Council and its member agencies have taken at regulated institutions in order to address risks in the leveraged lending market, especially with regard to weak underwriting standards; and

Response: The Federal Reserve conducted multiple reviews targeted toward assessing leveraged lending risk in the past year, including:

- An examination in fall 2018 across the largest global systemically important banks (G-SIBs) which evaluated the accuracy of bank-generated financial projections for leveraged borrowers over specific time periods and examined how loan structures (*e.g.*, terms and conditions) evolved over time.
- Semiannual SNC examinations (3Q18 and 1Q19) focused on leveraged loan underwriting practices and the effectiveness of firms' risk management functions across the regulated banking system.
- A 1Q19 examination of several large State member banks assessed policies and risk management procedures related to underwriting practices.

- CCAR 2019 included evaluations of banks' loss modeling methodologies related to leveraged loan exposures.
- Additional supervisory activities are ongoing or planned for the remainder of 2019, including the 3Q19 SNC semiannual examination which also will focus on leveraged lending.

A 3Q19 target exam of large banks will review syndicated lending pipeline stress-loss limits. This review will assess measurement and management of stress-loss exposures in relation to firms' limits.

5. A description of how FSOC is monitoring leveraged lending markets and what actions it plans to take to protect the economy from threats in credit and lending markets.

Response: We refer you to the U.S. Department of the Treasury for a response to this question.

Leveraged lending guidance

Q.3.a. Vice Chair Quarles said during the hearing that your agencies are concerned about the right regulatory response to developments in underwriting of leveraged loans, and have identified underwriting practices that need to improve. How have you clarified to banks agency expectations for safe and sound underwriting practices if the 2013 leveraged lending guidance that describes expectations for the sound risk management of leveraged lending activities no longer has any legal effect?

A.3.a. To clarify, the 2013 guidance on leveraged lending (2013 guidance) remains in effect, but, like all other guidance, it does not have, and never has had, the force or effect of law. Its status has not changed since its issuance. Rather, the agencies in September 2018 re-stated and reconfirmed the role of supervisory guidance, including the 2013 guidance. Examiners may refer to the principles outlined in the 2013 guidance when they assess any impact on a firm's safety and soundness posed by leveraged lending activities. Further, the Government Accountability Office's determination about the 2013 guidance has not affected our ability to supervise firms; we retain the ability to evaluate firms' leveraged lending activities and issue supervisory findings, where necessary, using our safety-and-soundness authority. Examiners have issued supervisory findings related to leveraged lending activities in recent examinations when individual bank circumstances required them, and will continue to do so.

As you may recall, the agencies issued the 2013 guidance in response to observations of increasing risk in leveraged lending activities and weakening risk management practices in our supervised institutions. The guidance was designed to provide greater clarity to the industry on the agencies' expectations regarding sound risk management and underwriting processes associated with leveraged lending. When assessing banks' practices, examiners focus on any weaknesses that could affect safety and soundness, taking into account each bank's individual circumstances. We have reminded our examiners to be clear when communicating

with financial institutions in order to minimize possible confusion between the principles and sound practices described in guidance and the requirements of regulations.

The leveraged loan market continues to warrant attention. We are monitoring closely how risks are evolving and the potential impact of these risks on the broader financial system, as well as assessing the adequacy of bank risk management and controls. For instance, during the 1Q19 SNC examination, we evaluated policies and risk management procedures at several large State member banks. Examiners identified some issues during those exams, including for deficient loan underwriting governance, risk measurement, and independent risk management.

Q.3.b. What are your current expectations?

A.3.b. As with all lending activities, supervised banks may participate in leveraged lending activities provided such activities are conducted in a safe and sound manner. The current supervisory expectations we have for sound leveraged lending activities are the same ones articulated in the 2013 guidance. These include expectations related to bank risk management and underwriting processes associated with leveraged lending that are consistent with safe and sound banking practices.

Q.4.a. During the financial crisis, even banks that did not have mortgage-backed securities on their balance sheets were exposed to the subprime mortgage crisis, in part because of the interconnect-edness of banks to other aspects of the financial system. In response to a question on leveraged lending, you stated that only 12 percent of collateralized loan obligations (CLOs) are held on bank balance sheets. In what types of entities are the remaining 88 percent held?

A.4.a. The Federal Reserve contributes to the Financial Stability Board's (FSB) review of the leveraged lending market, including the effort to better assess potential vulnerabilities stemming from leveraged loans for global financial stability. At my request, earlier this year the FSB established a working group to gather data from a broad range of global regulators to determine more precisely where this risk lies. We expect this group to complete its work in the coming months. The Federal Reserve itself does not collect data that offers a view into nonbank holders of collateralized loan obligations (CLO) tranches, but various research departments at banks have published reports that indicate the various holders are asset managers, family offices, hedge funds, insurance companies, mutual funds, pension funds, and structured credit funds.

Q.4.b. To what extent are CLOs held in structured investment vehicles or at nonbank affiliates of banks?

A.4.b. CLOs issue tranches of notes with varying degrees of credit risk, and the investor base for each of these tranches varies. A high-level analysis of third-party (*i.e.*, nonregulatory) data suggests that domestic and Japanese banks are the most prominent investors in the AAA tranche, with growing pension fund participation; insurance companies and asset managers are most active in the mezzanine tranches (the other rated debt tranches); and structured

credit funds and hedge funds appear to be the most notable CLO equity investors.

Compared to the pre-crisis CLO investor base, there appears to be substantially greater participation by investors with relatively stable, long-term sources of capital. Leveraged investment vehicles that relied on short-term wholesale funding had been meaningful investors in CLOs before the crisis, but appear to be no longer to be active in this market.

Q.4.c. To what extent are banks counterparties to credit default swaps that hedge against leveraged loan or CLO defaults?

A.4.c. Based on available data, the largest banks do not have material exposure to leveraged loans through derivatives. Bank counterparty credit exposures through credit default swaps appear to represent a small portion of the overall market.

Q.4.d. To what extent do banks provide credit to entities that own CLOs and under what terms?

A.4.d. A number of banks serve as CLO arrangers and, in some limited cases, as a CLO manager. Banks help arrange CLOs by providing warehouse lines of credit, structuring advice, and placement of CLO securities. Banks provide credit to a range of nonbank financial entities, so it is reasonable to expect that some entities that receive credit from banks also own CLO securities.

Q.4.e. Please provide to the Committee any Fed analysis of the impact of a significant change in asset prices on default rates of credit lines offered by banks to any nonbank entities.

A.4.e. The Federal Reserve has a number of tools to evaluate the risk posed by corporate loans to systemically important banks, and one such tool is the supervisory stress-test regime. Each year, the Federal Reserve uses the supervisory stress tests to evaluate the ability of banks to withstand severe economic and financial market stress while continuing to make capital distributions to shareholders and lend to households and businesses. As part of that evaluation, the Federal Reserve projects losses on banks' loan portfolios, which include loans to corporations and unfunded credit lines. The 2019 exercise, which included a 50 percent decline in equity prices and a widening of the spread between yields of investment-grade corporate bonds and long-term Treasuries to 5.5 percent, resulted in a nine-quarter loss rate on commercial and industrial loans of 6.3 percent for the banks subject to the 2019 stress test.³

Leveraged loans

Q.5.a. According to Bloomberg, as of 2018, U.S. banks were the largest leveraged loan underwriters. What percentage of leveraged loans are held on banks' balance sheets as opposed to securitized and sold as CLOs?

A.5.a. While banks are the primary underwriters of "leveraged loans" (defined generally as subinvestment grade syndicated term loans), the ultimate credit risk is typically sold to a number of

³See pages 26 to 28 and pages 63 to 69 of Dodd-Frank Act Stress Test 2019: Supervisory Stress Test Methodology (Washington, DC: Board of Governors, March 2019).

nonbanks. As a result, U.S. banks hold about 10 percent of the roughly \$1.1 trillion in total outstanding balances of leveraged loans.

There are, however, additional exposures that both banks and nonbanks maintain that have similar risk characteristics as leveraged loans. For example, U.S. banks hold funded revolving lines of credit and bilateral term loans that have similar risk characteristics as leveraged loans in an amount equal to roughly \$200 billion. For banks, both leveraged loans and these other exposures are incorporated into the Federal Reserve's stress test, which shows that banks have sufficient capital to absorb losses estimated under stressful conditions.

Q.5.b. What is the percentage of "covenant-lite" leveraged loans that have limited protection against losses upon default?

A.5.b. According to third-party data such as that of S&P, approximately 80 percent of leveraged loans outstanding are covenant-lite, meaning the loan agreement does not feature a financial maintenance covenant (*i.e.*, includes a financial metric the borrower must meet which, if unmet, would allow lenders to re-price the loan repayment risk associated with that particular borrower).

Stress tests

Q.6.a. In a recent speech, former Federal Reserve Governor Daniel K. Tarullo raised concerns about the Federal Reserve's recent actions and proposals to weaken the stress-test regime, including that the Federal Reserve now provides much more information on stress-test models and scenarios in an effort to be "transparent." Effectively, this gives banks the answer key to the test.

As former Governor Tarullo said, the "so-called volatility" in bank capital requirements because of changes in stress-test scenarios is "a necessary feature of a stress-testing regime, not a bug to be corrected." [1]

By providing banks with additional data on the scenarios and models, banks can reverse engineer supervisory models to include in their own capital plans and pre-determine the amount of capital they will be permitted to distribute through dividends and stock buybacks. Did the Federal Reserve intend to make it easier for the largest banks to increase shareholder value at the expense of financial stability?

[1] <https://ourfinancialsecurity.org/2019/05/speech-former-fed-governor-tarullo-decries-low-intensity-deregulation/>.

A.6.a. Increasing the transparency of the stress tests helps to further build on the credibility of the stress tests, which is positive for financial stability. I believe that our recent disclosure of the certain aspects of our supervisory model methodology provides the public with more information about the supervisory stress tests, but does not give firms enough information to make modifications to their businesses that change the results of the tests without changing the risks they face.

We have made a wide variety of information available about our stress tests, but we have not disclosed the full details of our models.

Q.6.b. Will the Federal Reserve's proposals render meaningless CCAR, which has been the binding capital constraint for the largest banks?

A.6.b. In its stress capital buffer (SCB) proposal, the Federal Reserve Board (Board) seeks to incorporate the stress-test regime, a key innovation and essential regulatory tool on which Comprehensive Capital Analysis and Review (CCAR) is based, into point-in-time capital requirements.

Under the Federal Reserve's current regulatory capital rules, none of the capital buffers are informed by the results of the stress test, and firms must separately demonstrate the ability to maintain capital ratios above minimum regulatory requirements in a post-stress capital assessment.

The SCB proposal would create a more robust and dynamic regulatory capital regime by replacing the current capital conservation buffer with a firm-specific buffer requirement based on firms' stress-test results and subject to a floor at least equal to the current capital conservation buffer of 2.5 percent.

Q.6.c. If the Fed provides its stress-testing models to banks before evaluating the banks' own models and efforts, how will the Fed ensure that systemically important banks are capable of modeling risk on their own and appropriately allocating retained earnings based on their exposures in adverse economic conditions?

A.6.c. As noted, we have not provided the stress-test models to the banks, nor do we intend to do so. In considering whether any additional disclosures are appropriate, we will be mindful of the risks that can arise.

In addition, we will continue to assess the stress-test modeling practices as part of our annual review of each of the largest firms' capital plans to determine whether the firms' stress-testing models and assumptions appropriately capture their unique business models and risk profiles.

BB&T/SunTrust/Stress Tests

Q.7. Suspending stress testing for SunTrust and BB&T means that regulators will not have 2019 stress-test results prior to their planned merger to become a \$442 billion bank at the end of 2019. Your agencies have indicated that you will continue to review the capital planning and risk-management practices of these institutions through the regular supervisory process. Please explain what aspects of the current supervisory process are sufficient replacements for stress testing to ensure that these types of large institutions could withstand an adverse economic shock.

A.7. While I cannot discuss firm-specific information, I can give you a sense of our capital planning requirements and supervisory expectations for large firms.

Under the Federal Reserve's capital plan rule, firms with material changes to their business or risk profile, as would be the case in the planned merger of SunTrust and BB&T, must update and submit a capital plan to the Federal Reserve for its review, including an updated quantitative post-stress capital assessment. This stipulation in the capital plan rule is independent of the Federal Reserve's recent decision to move less complex firms subject to the

stress tests from an annual to a 2-year stress-test cycle. These institutions will continue to be subject to ongoing supervision.

Faster payments

Q.8.a. In November 2018, the Federal Reserve published in the Federal Register a request for public comment on Potential Federal Reserve Actions to Support Interbank Settlement of Faster Payments.

What progress has the agency made in reviewing comments?

A.8.a. The Federal Reserve received and analyzed over 400 comment letters from a broad range of market participants, interest groups and consumer groups in response to the 2018 *Federal Register Notice* (2018 FRN). An analysis of the input received in response to the 2018 FRN has been completed.

Q.8.b. When does the Federal Reserve anticipate further action on this issue?

A.8.b. The Board announced on August 5, 2019, that the Reserve Banks will develop a new real-time payment and settlement service, called the FedNowSM Service, to support faster payments in the United States. In assessing its criteria for new payment services, the Board considers input from the public, historical experience, and its own analysis to assess whether such services can be expected to generate public benefits that private-sector services alone may be unable to achieve.⁴ Although my fellow Governors concluded that the development of the FedNowSM Service is appropriate at this time, I did not see strong justification for the Federal Reserve to move into this area and crowd out innovation when viable private-sector alternatives are available. As a result, I voted against this action.

Household Debt

Q.9.a. You have said that household borrowing is at low levels, but according to the Federal Reserve Bank of New York, household debt hit a record high last year, reaching \$13.5 trillion at year-end 2018. How are you addressing the ballooning consumer debt as a potential risk to the banking industry?

A.9.a. While household debt reached an all-time high at the end of 2018, measures of household debt relative to gross domestic product (GDP) and to household income show that household credit advanced roughly in line with these measures of economic activity. In fact, household borrowing remains at a modest level relative to income, with the household debt-to-GDP ratio declining in the past several years.

Other factors indicate that consumer debt is not a significant potential risk to the banking system. For example, loans to households on banks' books tend to be concentrated among prime borrowers, compared to loans in the nonbank sector. In addition, banks hold only about one-third of outstanding auto loans, and the

⁴ The Board considered whether private-sector real-time gross settlement (RTGS) services for faster payments alone could be expected to provide an infrastructure for faster payments with reasonable effectiveness, scope, and equity, and further, if private-sector services are likely to face significant challenges in extending equitable access. The Board also considered whether the development of the FedNowSM Service will likely yield clear and substantial benefits to the safety and efficiency of faster payments in the United States.

vast majority of student loans are either originated or guaranteed by the Federal Government.

Delinquency rates for prime and near-prime borrowers have been relatively flat, at historical lows. While overall delinquencies for subprime borrowers rose over the past year, they generally remain at levels at or below their pre-crisis values.

We assessed the systemic vulnerabilities from household debt as low to moderate in the most recent Financial Stability Report. The Board continues to monitor household debt and will update that assessment if conditions change.

Q.9.b. How are you addressing banks' exposure to levels of household debt that is 21 percent above the post-financial crisis low in 2013?

A.9.b. Banks' exposure to household debt varies across different types of loans, with the majority of exposure in mortgage debt, with much smaller exposure to credit card and auto loan debt. Banks have limited exposure to student loan debt.

Loan performance has been solid, on balance, across these three loan categories as banks focus on prime borrowers. Regarding mortgages, responses to the Federal Reserve's Senior Loan Officer Opinion Survey indicate that underwriting standards are much tighter now than they were prior to the financial crisis, especially for subprime loans, jumbo loans, and home equity lines of credit (HELOCs). In addition, bank exposures to HELOCs have declined since the crisis, as banks have less appetite for making such loans, partly due to higher capital requirements for these risky loans. Similarly, in the credit card and auto loan markets, banks have tightened significantly their underwriting standards since the crisis, reporting that their standards are at the tighter end of the range since 2005, especially to subprime borrowers. Currently, banks do not foresee a significant deterioration in household credit quality, as suggested by measures of loan-loss provisions, which are comparable to pre-crisis levels. Furthermore, the largest banks today are highly capitalized, more liquid, and less reliant on short-term wholesale funding. Taken together, all these indicators suggest that U.S. banks are well equipped to manage potential stresses in household lending markets.

FBOs

Q.10.a. You testified that the liquidity requirements on U.S. operations of foreign banks as a result of the foreign banking organization proposal are almost 4 percent higher, based on Fed estimates. Please elaborate. What aspect of the proposed rule requires FBOs to have 4 percent more liquidity than currently required?

A.10.a. The estimates previously provided were based on the Federal Reserve's April 2019 proposals to tailor prudential standards, including liquidity requirements, for foreign bank organizations (FBO). The estimated impact on liquidity requirements was based primarily on two elements of the proposals. First, the liquidity coverage ratio (LCR) rule applied only to a U.S. intermediate holding company if it had control over a bank. The proposals would have adjusted this requirement and applied the LCR rule to a U.S. intermediate holding company regardless of whether it had control over

a bank. Second, the proposals would have applied LCR requirements to a foreign bank's U.S. intermediate holding company based on the risk profile of the foreign bank's combined U.S. operations, which would have included the FBO's branch operations outside of the intermediate holding company in determining the relevant risk profile even though the regulations themselves would apply only to the intermediate holding company.

On October 10, 2019, the Board approved final rules to tailor prudential standards for large domestic and foreign banks. As proposed, the final rules apply LCR requirements to a U.S. intermediate holding company regardless of whether the U.S. intermediate holding company has control over a bank. In a change from the proposals, however, the final rules apply LCR requirements to a U.S. intermediate holding company of a foreign bank based on the risk profile of the U.S. intermediate holding company only. The Board believes this approach helps to enhance the focus and efficiency of LCR requirements relative to the proposals, because LCR requirements that apply to a U.S. intermediate holding company are based on the U.S. intermediate holding company's own risk profile. To the extent that the Board wishes to address the potential liquidity needs or other aspects of an FBO's branch operations, this would be more efficiently handled through measures directed to the branch itself, and—given the legal structure of branch operations—should be the subject of international agreement to ensure such measure's effectiveness. While the Board estimates that, under the final rules, liquidity requirements for the portion of FBO operations accounted for by intermediate holding companies would decrease by \$5 billion, we are pursuing discussions of branch liquidity regulation at the FSB, which I chair.

Q.10.b. Please provide for the Committee a detailed analysis and Fed estimates of the changes in all liquidity and capital standards for foreign Global Systemically Important Banks with operations in the United States, as well as changes to the intervals between any regulatory filing requirements or supervisory exercise like stress tests, under the proposal. Please also provide to the Committee any cost-benefit analysis performed weighing the risks to the economy of weakening regulations on foreign bank organizations against the additional consumer and small business lending expected to be gained from such deregulation.

A.10.b. Materials produced as a part of the public release of the final rule provide a detailed summary of the requirements that would apply under each category of standards under the final rule, as well as a list of foreign banks, including U.S. intermediate holding companies, by projected category.⁵ The materials include the categories of standards that would apply based on the risk profile of a U.S. intermediate holding company of a foreign bank. For capital and standardized liquidity standards, a firm would be assigned a category—and thus a set of applicable requirements—based on the risk profile of the foreign bank's U.S. intermediate holding company. For internal liquidity stress testing, a foreign bank would be

⁵ See the Board's public website at <https://www.federalreserve.gov/aboutthefed/boardmeetings/20191010open.htm>.

assigned a category based on the risk profile of a foreign bank's combined U.S. operations.

Please refer to the visuals that were released with the final rules to see a list of projected categories for large foreign banking organizations and their U.S. intermediate holding companies, as applicable.⁶ Impact assessments also are included in the final rules. All of these materials can be accessed on the Board's public website.⁷

Q.10.c. Please provide to the Committee any legal analysis performed by the Fed regarding national treatment and equality of competitive opportunity of FBOs as it relates to changes in treatment of domestic banks required by S. 2155. Please specifically note any elements of the April proposal that were justified under this rationale due to the implementation of S. 2155.

A.10.c. The final rules issued in October 2019 use similar categories of standards, risk-based thresholds, and stringency of standards for domestic and foreign banks with similar risk profiles in the United States. By using consistent indicators of risk, the final rules facilitate a level playing field between foreign and domestic banks operating in the United States, in furtherance of the principle of national treatment and equality of competitive opportunity.

Section 165(b)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires that, in applying enhanced prudential standards to a foreign-based bank holding company or Federal Reserve-supervised foreign nonbank financial company, the Federal Reserve "shall (A) give due regard to the principle of national treatment and equality of competitive opportunity; and (B) take into account the extent to which the foreign financial company is subject on a consolidated basis to home country standards that are comparable to those applied to financial companies in the United States." The Board has interpreted section 165(b)(2) to generally mean that foreign banking organizations operating in the United States should be treated no less favorably than similarly situated U.S. banking organizations and should generally be subject to the same restrictions and obligations in the United States as those that apply to the domestic operations of U.S. banking organizations.

Differences in the measurement of risk-based indicators and in the application of standards between domestic and foreign banks take into account structural differences in the operation and organization of foreign banks, as well as the standards to which foreign banks on a consolidated basis may be subject. For example, the final rules tailor the stringency of the prudential standards applicable to a foreign bank based on the risk profile of its U.S. operations instead of the foreign bank's global operations.

Q.11. In December 2018, the OCC, the Federal Reserve, and the FDIC jointly proposed to increase their agencies' appraisal threshold on residential mortgage loans from \$250,000 to \$400,000.[1] Lenders would instead be required to obtain an evaluation for any mortgage loan below \$400,000 not otherwise subject to require-

⁶ See <https://www.federalreserve.gov/aboutthefed/boardmeetings/files/tailoring-rule-visual-20191010.pdf>.

⁷ See <https://www.federalreserve.gov/aboutthefed/boardmeetings/20191010open.htm>.

ments by the mortgage insurer or guarantor or the secondary market.[2]

This proposal comes less than 2 years after the OCC, the Federal Reserve, the FDIC, and the CFPB rejected an increase in the residential loan appraisal threshold based on “considerations of safety and soundness and consumer protection” in their Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) report.[3] This proposal also goes far beyond legislation enacted by Congress to provide appraisal exemptions in rural areas.

As you know, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, requires the Federal banking regulators charged with setting appraisal exemption thresholds to receive concurrence from the CFPB to ensure that “such threshold level provides reasonable protection for consumers” before any amendment.[4]

[1] “Real Estate Appraisals,” 83 FR 63110, December 7, 2018, available at <https://www.federalregister.gov/documents/2018/12/07/2018-26507/real-estate-appraisals>.

[2] *Id.*

[3] Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act, Federal Financial Institutions Examination Council, March 2017, pg. 36, available at https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.

[4] 12 U.S.C. 3341(b).

Q.11.a. Did the Federal banking agencies confer with staff or leadership at the CFPB or seek CFPB’s concurrence before issuing the proposal to increase the appraisal exemption threshold? If not, at what point in the regulatory process do Federal banking agencies seek concurrence with the CFPB on appraisal threshold changes?

A.11.a. In order for the Board, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation (the agencies) to set an appraisal threshold for residential transactions, the Consumer Financial Protection Bureau (CFPB) must concur that the threshold level provides reasonable protection for consumers who purchase 1–4 unit single-family residences. In this regard, staff of the agencies conferred with CFPB staff before issuing the proposal and continued to consult with CFPB staff as the agencies worked to finalize the proposed threshold increase. On August 5, 2019, the CFPB concurred that the new residential threshold provides reasonable protection for consumers who purchase 1–4 unit single-family residences.

Q.11.b. In the background for the proposed rule, the Federal banking agencies stated they did not increase the residential real estate appraisal exemption threshold during the EGRPRA process because the change would have a “limited impact on burden reduction due to appraisals still being required for the vast majority of these transactions pursuant to the rules of other Federal Government agencies and the GSEs; safety and soundness concerns; and consumer protection concerns.”[5] Is your agency aware of any changes in the real estate market or in appraisal or evaluation services that would affect its safety and soundness or consumer

protection concerns, cited in the EGRPRA report, with increasing the residential mortgage appraisal threshold above \$250,000? If so, please detail these changes.

[5] “Real Estate Appraisals,” 83 FR 63110, December 7, 2018.

A.11.b. The agencies’ decision to propose an increase to the residential appraisal threshold was based on several factors: public feedback, our analysis of the safety and soundness implications on financial institutions, market factors such as changes in house prices since the threshold was last increased, the potential for regulatory burden reduction, and our supervisory experience with appraisals and evaluations.

During the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) process, as well as the rulemaking process to raise the threshold for commercial real estate loans, the agencies received numerous comments suggesting a residential threshold increase would produce regulatory relief for institutions. Following the EGRPRA process, the agencies conducted further analysis on the impact of a change to the residential appraisal threshold. The agencies considered market conditions by looking at changes in housing prices since 1994, when the threshold was last changed. In addition, the agencies analyzed Home Mortgage Disclosure Act data, which suggested that, though the impact on the total dollar volume of exempted transactions would be limited, the number of exempted transactions would increase materially and would provide cost savings and regulatory relief for financial institutions.

We also analyzed safety and soundness implications regarding a threshold increase for residential transactions, including available data and supervisory experience with appraisals and evaluations. Based on this analysis, the agencies determined that the threshold increase would not threaten the safety and soundness of financial institutions. The rule also requires evaluations that are consistent with safe-and-sound banking practices for transactions under the new threshold, as is required for transactions under other applicable appraisal thresholds. Based on our supervisory experience with evaluations, we believe evaluations are an effective valuation tool when an institution appropriately uses the evaluation.

As discussed in the preamble to the final residential appraisal threshold rule, the agencies considered potential consumer impact of the threshold increase, including protections that would continue to apply to exempted transactions. The agencies also consulted with the CFPB throughout the development of the proposal and final rule and, as required by statute, received concurrence from the CFPB that the final residential threshold provides reasonable protection for consumers who purchase 1–4 unit single-family residences.

Insurance

Q.12.a. As Chair of FSB you will lead the implementation of the IAIS global Insurance Capital Standard (ICS). Field testing for the proposed ICS will begin in November. Can you provide us your analysis of implementation of the current ICS in the United States?

A.12.a. In 2017, the International Association of Insurance Supervisors (IAIS) announced that it would release the ICS in two phases: a 5-year monitoring period beginning in 2020, followed by implementation as a prescribed capital requirement. Also in 2017, at the recommendation of the U.S. members, the IAIS committed to data collection and analysis of an aggregation method, an alternative approach to determining capital resources and capital requirements for a group-wide capital standard. The IAIS released a public consultation document on ICS Version 2.0 in 2018 and is planning to release ICS Version 2.0 in 2019 for use during the 5-year monitoring period.

The U.S. members of the IAIS as well as certain U.S. companies have concerns about the ICS that, as the ICS is currently developed, include a valuation method and other requirements that may not be optimal for the U.S. insurance market and may lead to unintended consequences. The current ICS's valuation method may be prone to volatility, which can especially affect long-term contracts and impair the ability of insurers to provide long-term life insurance and retirement planning products.

Q.12.b. In your view, will ICS implementation lead to outcomes that conflict with State-based supervision and solvency standards in the United States?

A.12.b. For an ICS to be considered successful as an international standard, it must be appropriate for the U.S. insurance market, the largest in the world. Many elements of the developing standard have not been thoroughly tested, and key areas remain unresolved. The reference method within the ICS is not based on U.S. generally accepted accounting principles (U.S. GAAP) or the National Association of Insurance Commissioner's (NAIC) Statutory Accounting Principles, introduces excessive volatility, and permits excessive reliance on supervised firms' internal models. As a result, implementation of ICS Version 2.0 as proposed would pose challenges to U.S. firms.

Q.12.c. If there are conflicts, do you plan to take steps to ensure that ICS outcomes are compatible with the State-based supervision and solvency standards under United States law?

A.12.c. In light of these implementation challenges, the Federal Reserve, together with other U.S. members of the IAIS (the Federal Insurance Office and the NAIC) continue to advocate for an aggregation alternative, and the use of an alternative valuation method using U.S. GAAP, in the ICS. It is our intent that the Federal Reserve's development of the Building Block Approach, a proposed capital standard for insurance holding companies under the Federal Reserve's consolidated supervision, together with the development of the Group Capital Calculation by the NAIC, will assist with advocacy for the aggregation method. Furthermore, it is our goal to have the aggregation method recognized as equivalent to the ICS. Through these efforts, we have created space in the international dialogue for U.S. approaches to insurance capital to be recognized as providing comparable outcomes.

It is important to recall that the ICS, or any standard produced by the IAIS, is a voluntary standard that is not binding, and would

not apply in a jurisdiction unless adopted voluntarily by the jurisdiction in accordance with applicable domestic laws.

Vice Chair for Supervision Randal K. Quarles
October 2017

FRIDAY – OCTOBER 13

Conference call with U.S. Treasury Department
Meeting with Mario Draghi – President, European Central Bank
Meeting with Jon Cunliffe – Deputy Governor, Bank of England
Meeting with Yasuhiro Sato – CEO, Mizuho Financial Group
Meeting with Mark Carney – Governor, Bank of England
Meeting with staff and Valdis Dombrovskis – Vice President, European Commission

THURSDAY – OCTOBER 19

Interagency conference call with Board Member, FDIC Chairman Martin Gruenberg, and Acting Comptroller of the Currency Noreika.

FRIDAY – OCTOBER 20

Conference call Levin Holle – Director General for Financial Market Policy, German Ministry of Finance

TUESDAY – OCTOBER 24

Conference call with Jon Cunliffe – Deputy Governor, Bank of England
Meeting with Senator Bill Nelson (FL)

WEDNESDAY – OCTOBER 25

Conference Call – Financial Stability Board Standing Committee on Supervisory and Regulatory Cooperation
Meeting with Hal Scott – Professor, Harvard Law School
Meeting with Randall Kroszner – Deputy Dean, University of Chicago Booth School of Economics
Meeting with Joe Engelhard, Vice President – MetLife; and Michael Zarccone – Executive Vice President, MetLife

THURSDAY – OCTOBER 26

Meeting with Phil Gramm – Vice President, UBS

Vice Chair for Supervision Randal K. Quarles
November 2017

THURSDAY – NOVEMBER 2

Meeting with Board Members and House Financial Services Committee Minority Members
Conference call with Mark Carney – Governor, Bank of England
White House Nomination Event for Governor Jerome Powell
Meeting with Senator Mike Crapo (ID)

FRIDAY – NOVEMBER 3

Meeting with staff and Nobuyuki Hirano – CEO, Mitsubishi UFJ Financial Group
Meeting with staff and Lloyd Blankfein – CEO, Goldman Sachs
Meeting with staff and Doug Elliott – Partner, Oliver Wyman
Meeting with staff and Akira Sugano – Director, Mizuho Financial Group

MONDAY – NOVEMBER 6

Conference call with the Acting Comptroller of the Currency Noreika

WEDNESDAY – NOVEMBER 7

Public discussion at The Clearing House and Bank Policy Institute Annual Conference
Meeting with The Clearing House Supervisory Board

THURSDAY – NOVEMBER 8

Conference call with Stefan Ingves – Governor, Sveriges Riksbank
Meeting with Jan Hatzius – Chief Economist, Goldman Sachs
Conference call with Francois Villeroy de Galhau – Governor, Banque de France
Meeting with staff and Craig Donohue – CEO, Options Clearing Corporation; Edward Tilly – CEO, Chicago Board Options Exchange; and Eric Chern – CEO, Chicago Trading Corporation.

THURSDAY – NOVEMBER 9

Meeting with Board Member and U.S. Treasury Department
Interagency conference call with Acting Comptroller of the Currency Keith Noreika and FDIC Chairman Martin Gruenberg
Meeting with Board Members and National Association for Business Economics
Meeting with staff and Harvey Schwartz – CFO, Goldman Sachs
Meeting with staff and Republican Senators of the Senate Banking Committee

MONDAY – NOVEMBER 13

Meeting with staff and Sarah Miller – CEO, Institute of International Bankers; Betty Whelchel – IIB board member; and Richard Coffman – IIB general counsel.
Meeting with FDIC Chairman Gruenberg
Conference call with Andrew Olmstead – Special Assistant to the President
Meeting with staff and Nobuchika Mori – Commissioner, Japan Financial Services Agency

TUESDAY – NOVEMBER 14

Meeting with staff and members of Mid-Size Bank Coalition of America: Sandro DiNello – CEO, Flagstar; Bob Jones – CEO, Old National; Ken Karels – CEO, Great Western; Chris Martin – CEO, Provident; Tom

Michaud – CEO, Keefe, Bruyette & Woods; Jay Sidhu – CEO, Customers; Raj Singh – CEO, BankUnited; Ed Wehmer – CEO, Wintrust; Dave Dykstra – COO, Wintrust; Jim Costa – Chief Risk Officer, TCF; John Hudgens – Chief Risk Officer, Texas Capital; Chris Reichert – CEO, Stifel Bank; and Arthur Long – Partner, Gibson Dunn & Crutcher.

Interagency conference call with FDIC Chairman Martin Gruenberg and Acting Comptroller of the Currency Keith Noreika

WEDNESDAY – NOVEMBER 15

Meeting with Senator Pat Toomey (PA)

Meeting with reporter

Meeting with reporter

THURSDAY – NOVEMBER 16

Meeting with Community Depository Institution Advisory Committee (CDIAC) and Board Members
Financial Stability Oversight Council meeting

MONDAY – NOVEMBER 20

Meeting with staff and Jes Staley – CEO, Barclays

Conference call with Bank of England

Meeting with Board Members and Council of Economic Advisers

Meeting with reporter

Interagency conference call with FDIC Chairman Martin Gruenberg and Acting Comptroller of the Currency Keith Noreika

Meeting with staff and Jamie Dimon – CEO, JPMorgan Chase

TUESDAY – NOVEMBER 21

Conference call with David Malpass – Under Secretary for International Affairs, U.S. Treasury

MONDAY- NOVEMBER 27

Meeting with staff and Triad Financial Services

Meeting with Acting Comptroller of the Currency Keith Noreika

Meeting with reporter

Swearing-in ceremony for Joseph Otting as Comptroller of the Currency

Meeting with staff and Tom Naratil – President, UBS Americas

Conference call with FDIC Chairman Gruenberg

TUESDAY – NOVEMBER 28

Meeting with reporter

Meeting with staff and Kyoto Ido – Embassy of Japan

Meeting with Financial Services Forum

Meeting with staff and Thomas Patrick – US CEO, Deutsche Bank

Meeting with staff and Jeff Brown – CEO Ally Financial; Chris Begy, Board Chairman, BMO Bank of Montreal; Ellen Alemany – CEO, CIT; Ralph Babb – Chairman, Comerica Bank; David Nelms – CEO, Discover Financial Services; Greg Carmichael – CEO, Fifth Third; Steve Steinour – CEO, Huntington Bancshares; Beth Mooney – CEO, KeyBank; Rick Waddell – CEO, Northern Trust Corporation; Bill Rogers – CEO, SunTrust Bank.

WEDNESDAY – NOVEMBER 29

Meeting with Matthew Haarsager – Special Assistant to the President

Meeting with staff and William Demchak – CEO, PNC Bank

Meeting with reporter

Federal Advisory Council meeting

THURSDAY – NOVEMBER 30

Meeting with Representative Jeb Hensarling (TX)

Federal Advisory Council meeting

Meeting with staff and Randall Guynn – Partner, Davis Polk & Wardwell

Conference call with Sigal Mandelker – Acting Deputy Secretary, U.S. Treasury Department

Conference call with Axel Weber – Chairman, UBS

Vice Chair for Supervision Randal K. Quarles
December 2017

FRIDAY – DECEMBER 1

Conference call with Jon Cunliffe – Deputy Governor, Bank of England
Conference call with Comptroller of the Currency Joseph Otting
Speech at Group of Thirty public discussion and dinner

MONDAY – DECEMBER 4

Meeting with staff and Ana Botin – Chairman, Santander
Conference call with Senator Ted Cruz (TX)
Conference call with Senator Mike Lee (UT)

TUESDAY – DECEMBER 5

Meeting with Daniel Tarullo – Professor, Harvard Law School
Meeting with Dennis Flannery – Citigroup
Meeting with Federal Financial Institutions Examination Council staff
Meeting with Joe Hooley – CEO, State Street
Meeting with staff and SEC Chairman Jay Clayton

WEDNESDAY – DECEMBER 6

Meeting with staff and CFTC Brian Quintenz
Conference call with Darrell Duffie – Professor, Stanford University
Meeting with Tim Adams – President and CEO, International Institute of Finance
Meeting with Marvin Goodfriend – Governor-Designate

FRIDAY – DECEMBER 8

Conference call with Andrew Olmstead – Special Assistant to the President

MONDAY – DECEMBER 11

Meeting with Adi Sunderam – Professor, Harvard Business School
Meeting with Hiroshi Nakaso – Deputy Governor, Bank of Japan
Meeting with FDIC Vice Chairman Thomas Hoenig
Joint meeting of the Board and Conference of Presidents Supervision Committees

TUESDAY – DECEMBER 12

Conference call with CFTC Commissioner Brian Quintenz
Reception for Kenichirō Sasae, Ambassador of Japan

WEDNESDAY – DECEMBER 13

Meeting with staff and John Bryant – President, Operation Hope
Meeting with staff and Dennis Kelleher – CEO, Better Markets

THURSDAY – DECEMBER 14

Meeting with Andrew Metrick – Professor, Yale School of Management
Meeting with staff and Tim Pawlenty – President, Financial Services Roundtable
Meeting with staff and Tidjane Thiam – CEO, Credit Suisse
Financial Stability Oversight Committee meeting

Meeting with Sigal Mandelker – Acting Deputy Treasury Secretary, U.S. Treasury

FRIDAY – DECEMBER 15

Conference call with Senator Mike Crapo (ID)
Conference call with Senator Sherrod Brown (OH)
Conference call with Representative Jeb Hensarling (TX)
Conference call with Representative Maxine Waters (CA)

MONDAY – DECEMBER 18

Conference call with John Walsh – Partner, McKinsey Group
Conference call with Rob Nichols – President, American Bankers Association

TUESDAY – DECEMBER 19

Conference call with Sam Woods – Deputy Governor, Prudential Regulation Authority
Conference call with Craig Phillips – Counselor to the Secretary, U.S. Treasury

THURSDAY – DECEMBER 21

Conference call Senator Pat Toomey (PA)

FRIDAY – DECEMBER 22

Conference call with reporter

Vice Chair for Supervision Randal K. Quarles
January 2018

WEDNESDAY – JANUARY 3

Conference call with Harry Ballan – Dean, Touro Law Center
Meeting with Michael Pease – Managing Director, Goldman Sachs

THURSDAY – JANUARY 4

Conference call with Senator Tom Carper (DE)

FRIDAY – JANUARY 5

Conference call with Robert Hatch – Senior Director, Financial Services Roundtable

MONDAY – JANUARY 8

Meeting with staff and Hal Scott – Professor, Harvard University; and John Gulliver – Harvard University

TUESDAY – JANUARY 9

Meeting with Representative Andy Barr (KY)
Meeting with John Ryan – President & CEO, Conference of State Bank Supervisors (CSBS); and Michael Steven – Executive Vice President, CSBS
Meeting with John Tsanas – President, Excalibur Global Strategic Consultants, LLC
Meeting with staff and Charles Scharf – CEO, Bank of New York Mellon

WEDNESDAY – JANUARY 10

Meeting with staff and Jeff Campbell – CFO, American Express
Meeting with staff and Mark Thresher – CFO, Nationwide; Dean Pappas – Vice President, Nationwide;
Steve McManus – General Counsel, State Farm; Joe Kohmann – CFO, Westfield.
Conference call with FDIC Chairman Gruenberg
Meeting with staff and Walk Lukken – President, FIA
Meeting with Jeff Kupfer and Stephen Scott – Starling Trust
Meeting with Representative Maxine Waters (CA)

THURSDAY – JANUARY 11

Meeting with Representative Blaine Luetkemeyer (MO)
Meeting with reporter
Meeting with staff and Randall Guynn – Partner, Davis Polk & Wardwell; and Luigi De Ghenghi – Partner,
Davis Polk & Wardwell
Meeting with staff and Marcus Stanley – Policy Director, Americans for Financial Reform

TUESDAY – JANUARY 16

Conference call with FDIC Chairman Gruenberg
Meeting with Council of Economic Advisors and Board Members
Meeting with reporter
Financial and Banking Information Infrastructure Committee meeting
President's Working Group on Financial Markets meeting

WEDNESDAY – JANUARY 17

Meeting with Senator Sherrod Brown (OH)
 Conference call with FDIC Chairman Gruenberg
 Meeting with staff and Ken Bentsen – President and CEO, SIFMA
 Conference call with Chris Dodds – Director, Charles Schwab
 Conference Call with Harvey Schwartz – CFO, Goldman Sachs
 Meeting with reporter
 Meeting with reporter
 Conference call with Comptroller of the Currency Joseph Otting and FDIC Chairman Gruenberg

THURSDAY – JANUARY 18

Leader Nancy Pelosi's Reception for Chair Janet Yellen
 Meeting with staff and Barbara Novick – Vice Chairman, Blackrock
 American Bankers Association (ABA) Economic Advisory Committee meeting
 Conference call with Eric Varvel – Managing Director, Credit Suisse
 ABA reception

FRIDAY – JANUARY 19

American Bar Association Bank Law Committee speech
 Meeting with staff and Stephen Cecchetti – Professor, Brandeis University; Itay Goldstein – Professor, Wharton; Robin Greenwood – Professor, Harvard Business School; Richard Herring – Professor, Wharton; Andrew Metrick – Professor, Yale Law School; Thomas Philippon – Professor, New York University; and Nancy Wallace – Professor, Berkeley-Haas.

MONDAY – JANUARY 22

Meeting with Blair Fleming – CEO, Royal Bank of Canada USA
 Meeting with staff and Jeremy Rudin – Superintendent, Office of the Superintendent of Financial Institutions

TUESDAY – JANUARY 23

Meeting with staff and Olivier Guersent – Director-General, European Commission
 Conference call with Senator Tom Carper (DE)

WEDNESDAY – JANUARY 24

Conference call with Chris Campbell – Assistant Secretary of the Treasury for Financial Institutions, U.S. Treasury

THURSDAY – JANUARY 25

Meeting with staff and Scott O'Malia – CEO, International Swaps and Derivatives Association
 Meeting with staff and Denis Beau – Deputy Governor, Banque De France

FRIDAY – JANUARY 26

Conference call with Eric Varvel – Managing Director, Credit Suisse

SUNDAY – JANUARY 28

House Financial Services Committee Republican Retreat with Board Member

MONDAY – JANUARY 29

Conference call with FDIC Chairman Marty Gruenberg and Comptroller of the Currency Joseph Otting

WEDNESDAY – JANUARY 31

Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Vice Chair for Supervision Randal K. Quarles
February 2018

Thursday – February 1

Meeting with staff and Darryl White – CEO Bank of Montreal; and David Casper – US CEO, Bank of Montreal

Meeting with staff and Greg Becker – CEO, Silicon Valley Financial Group

Meeting with staff and Renee Jones – Chairman & CEO, M&T Bank

Friday – February 2

Meeting with Howard Headlee – President, Utah Bankers Association

Monday – February 5

Meeting with staff and Michael Norbert – Director, Heritage Foundation

Meeting with Clay Lowery – Vice President, Rock Creek Advisors

Meeting with staff and Rebeca Romero Rainey – Independent Community Bankers of America

Meeting with Bill Isaac – Senior Managing Director, FTI Consulting

Meeting with Kevin Fromer – CEO, Financial Services Forum

Tuesday – February 6

Meeting with staff and Wilson Ervin – Vice President, Credit Suisse

Meeting with reporter

Wednesday – February 7

Meeting with staff and Bruce Van Saun – CEO, Citizens Financial Group

Meeting with staff and Nobuyuki Kawabata – CEO, Sumitomo Mitsui Banking Corporation Americas Division

Meeting with Comptroller of the Currency Joseph Otting and FDIC Chairman Martin Gruenberg

Conference call with Keith Noreika – Partner, Simpson Thacher & Bartlett

Thursday – February 8

Meeting with staff and Gene Ludwig – CEO, Promontory Financial Group

Meeting with staff and Conference of Business Economists

Federal Advisory Council Reception

Friday – February 9

Federal Advisory Committee meeting

Financial Stability Board (FSB) conference call

Meeting with Hal Scott – Professor, Harvard Law School

Meeting with staff and Roger Ferguson – CEO, TIAA

Monday – February 12

FSB conference call

Meeting with staff and Mark Branson – CEO, FINMA

Meeting with reporter

Meeting with staff and Richard Nash – Vice President, PayPal

Conference call with Kelly King – CEO, BB&T

Conference call with Harvey Schwartz – CFO, Goldman Sachs

Tuesday – February 13

Meeting with Christine Edwards – Partner, Winston & Strawn LLP

Meeting with Bimal Patel – Assistant Secretary for Financial Institutions, U.S. Treasury

Meeting with staff and small businesses: Yolonda Henry – Nuksy's Fine Catering; Allison Kave – Butter and Scotch; Pamela Schulte – Lucky Spoon Bakery; Amy Wong – Dot Org Solutions; Daniel Garcia – Salsa Express; Brent Reaves – Smokey John's Bar B Que; Lawrence Salone – Post Trauma Institute of LA; Pete Windle – Windle Mechanical Solutions; and Vincent Nwibiabu – KAL Medical Supplies.

Meeting with Senator Michael Bennet (CO)

Wednesday – February 14

Meeting with SEC Chairman Jay Clayton

Meeting with staff Catherine McKinnell – Member of Parliament, United Kingdom

Conference call with CFTC Chairman J. Christopher Giancarlo

Thursday – February 15

Conference call Senator Jon Tester (MT)

Meeting with Capital One CEO – Richard Fairbank with Capital One staff and Board staff

Meeting with staff and Charles Dallara – Chairman, Partners Group

Meeting with Cynthia Glassman – George Washington University

Conference call Senator Mike Crapo (ID)

Friday – February 16

Meeting with Howard Headlee – CEO, Utah Bankers Association

Tuesday – February 20

Financial Stability Oversight Council meeting

Wednesday – February 21

Meeting with Hiroshi Nakaso – Deputy Governor, Bank of Japan

Thursday – February 22

Meeting with Eiji Maeda – Assistant Governor, Bank of Japan

Meeting with Haruhiko Kuroda – Governor, Bank of Japan; and Eiji Maeda – Assistant Governor, Bank of Japan

Meeting with Hitoshi Suzuki – Board Member, Bank of Japan

Meeting with Ryozo Himino – Vice Minister for International Affairs, Japanese Financial Services Agency

Speech at Institute for International Monetary Affairs Symposium

Meeting with Nobuyuki Hirano – President, Mitsubishi UFJ Financial Group (MUFG)

IIMA Symposium dinner

Friday – February 23

Conference call with SEC Chairman Jay Clayton

Conference call with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Monday – February 26

Conference call with Comptroller of the Currency Joseph Otting and FDIC Martin Chairman Gruenberg

Conference call with CFTC Commissioner Brian Quintenz
Meeting with staff and Tidjane Thiam – CEO, Credit Suisse
Speech at National Association of Business Economics conference
Speech at Financial Services Roundtable 2018 Spring Conference

Tuesday – February 27

FSB conference call

Wednesday – February 28

FSB conference call

Vice Chair for Supervision Randal K. Quarles
March 2018

Thursday – March 1

Financial Stability Board (FSB) conference call
Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Monday – March 5

FSB conference Call
Meeting with staff and Andreas Dombret – Executive Board, Deutsche Bundesbank
Conference call with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Joseph Otting
Speech at Institute of International Bankers conference

Wednesday – March 7

Meeting with staff and Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury; and David Malpass – Under Secretary for International Affairs, U.S. Treasury
Meeting with staff and Alex Wynaendts – CEO, Aegon
Meeting with staff and CFOs; John C. Gerspach – Citi; Paul Michael Donofrio – Bank of America; Marianne Lake – JPMorgan Chase; Michael Santomassimo – Bank of New York Mellon; Eric Aboaf – State Street; Harvey Schwartz – Goldman Sachs; and Jonathan Pruzan – Morgan Stanley.
Meeting with staff and Bharat Masrani – CEO, TD Bank
Meeting with staff and John Walsh – Partner, McKinsey; and Kevin Buehler – Partner, McKinsey
Meeting with Drew Breakspear – Commissioner, Florida Financial Regulation Commission
Conference call with SEC Chairman Jay Clayton

Thursday – March 8

Meeting with Trevor Montano – Managing Director, Moelis & Company
Treasury Borrowing Advisory Committee meeting
Conference call with Senator Bob Corker (TN)
Meeting with staff and Craig Phillips – Counselor to the Secretary, U.S. Treasury

Monday – March 12

Meeting with staff and Paul Speltz – CEO, Global Strategic Associates
Financial Stability Oversight Committee meeting
Financial and Banking Information Infrastructure Committee meeting
President's Working Group on Financial Markets meeting

Tuesday – March 13

Meeting with Technology CEO Council: Steve Mollenkopf – CEO, Qualcomm; Michael Dell – CEO, Dell Technologies; Sanjay Mehrotra – CEO, Micron Technology; and Dion Weisler – CEO, HP.

Wednesday – March 14

Meeting with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Joseph Otting
Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Thursday – March 15

Meeting with staff and Philip Lane – Governor, Central Bank of Ireland

Friday – March 16

Meeting with FDIC Chairman Martin Gruenberg

Saturday – March 17

Meeting with staff and Jens Weidmann – Governor, Bundesbank
Bank for International Settlement (BIS) meeting

BIS meeting

BIS meeting

Meeting with Norman Chan – Chief Executive, Hong Kong Monetary Authority

Sunday – March 18

FSB meetings (3)

BIS meeting

Meeting with staff and Mario Draghi – President, ECB

Wednesday – March 21

Conference call with staff and Randall Guynn – Partner, Davis Polk & Wardwell; and Luigi De Ghenghi – Partner, Davis Polk & Wardwell

Conference call with staff and Rodgin Cohen – Partner, Sullivan & Cromwell

Thursday – March 22

Meeting with CFTC Chairman J. Chris Giancarlo

Meeting with staff and Greg Baer – CEO, Clearing House

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Conference call with Harvey Schwartz – CFO, Goldman Sachs

Conference call with Comptroller of the Currency Joseph Otting

Friday – March 23

Conference call with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Joseph Otting

Monday – March 26

Meeting with Bill Roger – CEO, SunTrust

Public speech at Operation HOPE Global Forum

Tuesday – March 27

Meeting with Federal Financial Institutions Examination Council staff

Meeting with staff and Paul Tucker – Chair, Systemic Risk Council

Wednesday – March 28

Meeting with Andrew Olmem – Special Assistant to the President

Meeting staff and Raimund Roseler – Chief Executive Director, BaFin

Meeting with staff and James Gorman – CEO, Morgan Stanley

Meeting with Greg Gonzales – Commissioner, Tennessee Department of Financial Institutions

Thursday – March 29

Meeting with staff and Mark Grieg – Vice Chairman, Prudential

A Day at the Federal Reserve Program for Congressional staff

Conference Call with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Joseph Otting

Vice Chair for Supervision Randal K. Quarles
April 2018

Tuesday – April 3

Discussion with George Washington University Law students
Meeting with reporter
Conference call Bill Demchak – CEO, PNC
Meeting with Stuart Parker – CEO, USAA

Wednesday – April 4

Conference call Dan Tarullo – Professor, Harvard Law School

Thursday – April 5

Meeting with Randall Guynn – Partner, Davis Polk & Wardwell; and Luigi De Ghenghi – Partner, Davis Polk & Wardwell
Meeting with staff and Ana Botin – Chairman, Santander Group; and Tim Ryan – Chairman, Santander Holdings, U.S.

Friday – April 6

Conference call with staff and Rebekah Jurata – Deputy Assistant Secretary for International Financial Stability and Regulation
Conference call with Rob Nichols – President, American Bankers Association
Conference call with FDIC Chairman Martin Gruenberg

Monday – April 9

Meeting with reporter
Meeting with staff and David Puth – CEO, CLS
Conference call with Kevin Fromer – President, Financial Services Forum

Tuesday – April 10

Financial Stability Board (FSB) conference call
Meeting with staff and David Sampson – CEO, American Property Casualty Insurance Committee on Financial Stability
Conference call Senator Crapo (ID)
Conference call with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Wednesday – April 11

Meeting with Clay Lowery – Vice President, Rock Creek Advisors
Meeting with Lawrence Goodman – President, Center for Financial Stability
Meeting with staff and David Nelms – CEO, Discover
Meeting with staff and Fixed Income Forum board
Conference call with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Joseph Otting
Meeting with Clay Lowery – Vice President, Rock Creek Advisors

Thursday – April 12

Conference call with Representative Maxine Waters (CA)

Friday – April 13

Community Depository Institutions Advisory Council Conference Call meeting
Conference call with Arthur Long – Partner, Gibson, Dunn & Crutcher

Monday – April 16

Conference call with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Joseph Otting
Conference call with Senator Sherrod Brown (OH)
Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Conference Call with Randall Guynn – Partner, Davis Polk & Wardwell
Conference Call with Representative Jeb Hensarling (TX)
Meeting with John Dugan – Chairman, Citigroup

Tuesday – April 17

Testimony at House Financial Services Committee
Meeting with staff and Per Callesen – Governor, National Bank of Denmark
Meeting with Thomas Jordan – Chairman, Swiss National Bank
Meeting with staff and Yi Huiman – Chairman, Industrial and Commercial Bank of China
Conference call with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Wednesday – April 18

Meeting with Agustin Carstens – General Manager, Bank for International (BIS) Settlements
Meeting with Mathias Cormann – Senator, Australia
Meeting with staff and Axel Weber – Chairman, UBS
Meeting with Jamie Dimon – CEO, JPMorgan Chase
Public discussion at Bretton Woods Committee Annual Meeting
Meeting with staff and Mark Carney – Governor, Bank of England; FDIC Chairman Martin Gruenberg; and Comptroller of the Currency Joseph Otting.

Thursday – April 19

Testimony at Senate Banking Committee
Meeting with Mark Carney – Governor, Bank of England
Trilateral Principal Level Exercise meeting: Mark Carney – Governor, Bank of England; Sir Jon Cunliffe – Deputy Governor, Bank of England; Philip Hammond, Chancellor of the Exchequer, HM Treasury; Vitor Constancio – Vice President, European Central Bank; Elke Koenig – Chair, Single Resolution Board; Valdis Dombrovskis – Vice President, European Commission; and Board Member and staff.
Meeting with staff and Klaas Knot – President, De Nederlandsche Bank
Meeting with staff and Ashley Adler – CEO, Securities and Futures Commission of Hong Kong
Meeting with Sir Andrew Large – Chairman, Oliver Wyman

Friday – April 20

Meeting with Carolyn Wilkins – Senior Deputy Governor, Bank of Canada
Meeting with Karolina Ekholm – Deputy Minister of Finance, Sweden
Meeting with minority depository institutions: Joanna Kim – CEO, CBB; Cynthia Day – CEO, Citizens Trust Bank; Les Parker – CEO, United Bank of El Paso del Norte; Doug Krause – Chief Risk Officer, East West Bank; James Wang – CEO, Asian Bank; Susan Plumb – CEO, Bank of Cherokee County; Lidio Soriano – Chief Risk Officer, Banco Popular; Monica Mapira – Executive Vice President, All Nations Bank.
Meeting with Jose Vinals – Group Chairman, Standard Chartered
Meeting with Levin Holle – Director General for Financial Market Policy, German Ministry of Finance

Meeting with staff and William Coen – Secretary General, BIS
 Meeting with staff and Villeroy de Galhau – Governor, Banque de France
 Meeting with Sir Jon Cunliffe – Deputy Governor, Bank of England
 Meeting with staff and Andrew Bailey – Chief Executive, United Kingdom’s Financial Conduct Authority
 Meeting with staff and Ravi Menon – Managing Director, Monetary Authority of Singapore
 Meeting with Andreas Dombret – Executive Board, Deutsche Bundesbank
 Meeting with staff and Jean Lemierre – Chairman, BNP Paribas
 Meeting with staff and Alejandro Diaz de Leon-Carillo – Governor, Bank of Mexico

Monday – April 23

Meeting with staff and Hartwig Loeger – Minister of Finance, Austria

Tuesday – April 24

Meeting with Representative Patrick McHenry (NC)
 Meeting with staff and Saeb Eigner – Chairman, Dubai Financial Services Authority
 Meeting with Council of Economic Advisors and Board Member
 Meeting with University of Maryland students
 Conference call with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Joseph Otting
 Conference call with Comptroller of the Currency Joseph Otting

Wednesday – April 25

Conference call with Andrew Olmem – Special Assistant to the President
 Meeting with Odile Renaud-Basso – Director General, French Treasury
 Meeting with Representative Gwen Moore (WI)

Thursday – April 26

Meeting with Representative Keith Ellison (MN)
 Conference call Senator Heidi Heitkamp (ND)
 Conference call with FDIC Chairman Martin Gruenberg
 Meeting with Senator Richard Shelby (AL)

Friday – April 27

Conference call with Craig Phillips – Counselor to the Secretary, U.S. Treasury
 Conference Call with CFTC Chairman J. Chris Giancarlo

Monday – April 30

Conference call with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Otting
 Conference call with Sir Paul Tucker – Chair, Systemic Risk Council
 Meeting with staff and Comptroller of the Currency Joseph Otting; FDIC Chairman Martin Gruenberg;
 and National Credit Union Administration Chairman J. Mark McWatters.

Vice Chair for Supervision Randal K. Quarles
May 2018

Thursday – May 3

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Friday – May 4

Public speech at Stanford University, Hoover Institution

Sunday – May 6

Speech to Federal Reserve Bank of Atlanta conference

Monday – May 7

Conference Call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Reception for Columbia Business School Distinguished Leadership in Government Award Dinner

Columbia Business School Distinguished Leadership in Government Award Dinner

Tuesday – May 8

Meeting with staff and FDIC Chairman Martin Gruenberg, Financial Crimes Enforcement Network Director Kenneth Blanco, National Credit Union Administration Chairman J. Mark McWatters, Comptroller of the Currency Joseph Otting, and Acting Deputy Secretary of the U.S. Treasury Sigal Mandelker.

Conference call with Randall Guynn – Partner, Davis Polk & Wardwell

Wednesday – May 9

Meeting with students from University of Utah

Meeting with staff and Chief Financial Officers: Paul Donofrio – CFO, Bank of America; Michael Santomassimo – CFO, Bank of New York Mellon; John Gerspach – CFO, Citigroup; Marty Chavez – CFO, Goldman Sachs; Jonathan Pruzan – CFO, Morgan Stanley; and Eric Aboaf – CFO, Wells Fargo.

Meeting with FDIC Chairman Martin Gruenberg and Comptroller of the Currency Joseph Otting

Meeting with FDIC Chairman Martin Gruenberg

Meeting with staff and Greg Becker – CEO, Silicon Valley Bank

Meeting with Senator Thom Tillis (NC)

Thursday – May 10

Meeting with staff and Jay Levin – CEO, One Main Financial

Meeting with staff and Catherine McGuinness – Chairman of Policy, City of London Corporation

Meeting with Paul Saltzman – Partner, White & Case

Meeting with staff and Craig Phillips – Counselor to the Secretary, U.S. Treasury; Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury; and David Malpass – Under Secretary for International Affairs. U.S. Treasury.

Meeting with staff, Board Member, and Thomas Workman – Member, Financial Stability Oversight Council

Meeting with staff and Douglas Elliott – Partner, Oliver Wyman

Meeting with staff and Tom Naratil – President, UBS Americas

Friday – May 11

Meeting with Matthew Hurlock – Partner, Gibson, Dunn & Crutcher
 Federal Advisory Council meeting
 Conference call with Senator Pat Toomey (PA)
 Conference call with SEC Chairman Jay Clayton, CFTC Chairman J. Chris Giancarlo, and Assistant Secretary, U.S. Treasury, Heath Tarbert.

Monday – May 14

Conference call with Luis Rayo – Professor, Northwestern University
 Conference call with SEC Commissioner Michael Piwowar
 Conference call with Gabe Benincasa – Chief Risk Officer, SEC

Tuesday – May 15

Financial Stability Board (FSB) conference call
 Meeting with staff and Tim Buckley – CEO, Vanguard; and John Brennan – Chairman, Vanguard
 Meeting with Sheila Bair – Director, the Volcker Alliance
 Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
 Meeting with staff and Julie McPeak – President, National Association of Insurance Commissioners
 Conference call with Comptroller of the Currency Joseph Otting and FDIC Chairman Martin Gruenberg
 Meeting with Marcus Stanley – Policy Director, Americans for Financial Reform

Wednesday – May 16

Speech at Harvard Law School Program of International Financial Systems conference
 Meeting with Sam Woods – CEO, United Kingdom Prudential Regulation Authority
 Meeting with Hal Scott – Professor, Harvard Law School

Thursday – May 17

Meeting with staff and Marketplace Lending Association members: Bernardo Martinez – CEO, Funding Circle US; Dave Girouard - CEO, Upstart Network; David Kimball – CEO, Prosper; Josh Tonderys – President, Marlette Funding; Max Levchin – CEO, Affirm.
 Meeting of Alternative Reference Rates Committee
 FSB conference call

Friday – May 18

FSB conference call

Tuesday – May 22

Conference call with Board Member and Craig Phillips – Counselor to the Secretary, U.S. Treasury
 Conference call with Mick Mulvaney – Acting Director, CFPB
 Conference call with Tim Ryan – Chairman, Santander

Wednesday – May 23

Meeting with staff and Norman Chan – CEO, Hong Kong Monetary Authority
 FSB dinner

Thursday – May 24

FSB meeting
 Conference call with Senator Mike Crapo (ID)

Wednesday – May 30

Treasury Borrowing Advisory Council meeting

Meeting with staff and small bank CEOs: Jeff Brown – CEO, Ally; Onur Genc – CEO, BBVA; Ralf Babb – CEO, Comerica; David Nelms – CEO, Discover Financial Services; Steve Steinour – CEO, Huntington Bancshares; Rene Jones – CEO, M&T Bank; Mike O’Grady – CEO, Northern Trust; Grayson Hall – CEO, Regions; and Harris Simmons – CEO, Zions.

Thursday – May 31

Meeting with reporter

Meeting with reporter

Conference call with Mark Everson – Chairman, Alliantgroup

Conference call with Comptroller of the Currency Joseph Otting and FDIC Chairman Martin Gruenberg

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Television interview

Vice Chair for Supervision Randal K. Quarles
June 2018

Friday – June 1

Conference call with Jamie Dimon – CEO, JPMorgan Chase
Conference call with Charles Scharf – CEO, Bank of New York Mellon
Conference call with FDIC Chairman Martin Gruenberg

Monday – June 4

Conference call with Keith Norieka – Partner, Simpson Thacher

Tuesday – June 5

Conference call with Dietrich Domanski – Secretary General, Financial Stability Board (FSB)
Swearing-in ceremony for FDIC Chairman Jelena McWilliams
Meeting with Mick Mulvaney – Acting Director, CFPB

Wednesday – June 6

Meeting with staff and Vitas Vasiliauskas – Governor, Bank of Lithuania
Speech at Federal Reserve Board, World Bank, and International Monetary Fund Eighteenth Annual International Conference on Policy Challenges for the Financial Sector

Friday – June 8

Conference call with Representative Blaine Luetkemeyer (MO)

Thursday – June 14

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Meeting with staff and Sir David Tweedie – Chairman, International Valuation Standards Council
Meeting with staff and Justin Field and Charlotte Savercool – National Venture Capital Association
Conference call with Richard Fairbank – CEO, Capital One Bank
Conference call with Bruce Van Saun – CEO, Citizens Bank

Friday – June 15

Conference call with Sharon Brown-Hruska – Managing Director, NERA Economic Consulting Financial Stability Oversight Council meeting

Monday – June 18

Meeting with staff and Michael Bodson – CEO, DTCC
Meeting with Tim Adams – CEO, Institute of International Finance
Meeting with Council of Economic Advisors and Board Members
President's Working Group on Financial Market meeting
Conference call with Charles Calomiris – Professor, Columbia University

Tuesday – June 19

Conference call with Rosemary Turner – Deputy Chair, Board of Directors, Federal Reserve Bank of San Francisco
Conference call with Mark Carney – Governor, Bank of England
Financial Stability Board (FSB) conference call

Wednesday – June 20

Meeting with staff and Chan Heng Chee – Ambassador-at-Large, Singapore Foreign Ministry
Meeting with Harvey Schwartz – CFO, Goldman Sachs

Thursday – June 21

Meeting with Board Members and American Bankers Association Economic Advisory Council
Meeting with Eric Varvel – Global Head of Asset Management and President and CEO, Credit Suisse Holdings (USA), Inc.
Meeting with staff and Greg Baer – President, Clearing House
Conference call with Harvey Schwartz – CFO, Goldman Sachs
Meeting with Marianne Lake – CFO, JPMorgan Chase
Conference call with reporters
Meeting with staff and Mark Yallop – Chair, Fixed Income, Currency and Commodities Markets Standards Board

Friday – June 22

Conference call with Kevin Fromer – President, Financial Services Forum
Conference call with Randall Guynn – Partner, Davis Polk & Wardwell; and Luigi DeGhenghi – Partner, Davis Polk & Wardwell

Sunday – June 24

Meeting with staff and Fernando Restoy – Chairman, Financial Stability Institute

Monday – June 25

FSB meeting
FSB dinner

Tuesday – June 26

Conference call with Rostin Behnam – Commissioner, CFTC

Wednesday – June 27

Public speech at Utah Bankers Association conference
Conference call with Jay Hooley – CEO, State Street

Thursday – June 28

Conference call with reporters

Vice Chair for Supervision Randal K. Quarles
July 2018 Calendar

Friday – July 6

Conference call with Andrew Bailey – Chief Executive, United Kingdom’s Financial Authority Conduct; and Commodity Futures Trading Commission (CFTC) Chairman J. Chris Giancarlo

Monday – July 9

Meeting with students from St. Albans School of Public Service

Tuesday – July 10

Meeting with Robert Kimmitt – Senior International Counsel, WilmerHale
Meeting with staff and Andrea Enria – Chair, European Banking Authority
Meeting with CFTC Chairman Giancarlo
Meeting with Hirohide Yamaguchi – former Deputy Governor, Bank of Japan

Wednesday – July 11

Meeting with Gabe Benincasa – Chief Risk Officer, Securities and Exchange Commission (SEC)
Meeting with Phil Levy – Senior Fellow, Chicago Council on Global Affairs
Meeting with staff and Robert Cook – CEO, Financial Industry Regulatory Authority
Conference Call with Roger Ferguson – CEO, TIAA
Conference call with Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams and Comptroller of the Currency (OCC) Joseph Otting

Thursday – July 12

Conference call with Richard Fairbank – CEO, Capital One
Meeting with Charlie Scharf – CEO, Bank of New York Mellon
Meeting with FDIC Chairman McWilliams

Friday – July 13

Conference call with SEC Chairman Jay Clayton and Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Monday – July 16

Meeting with staff and Roberto Gualtieri – Chair, Economic and Monetary Affairs Committee, European Parliament
Conference call with Andrew Olmstead – Special Assistant to the President
Conference call with Randall Guynn – Partner, Davis Polk & Wardwell
Conference call with Arthur Long – Partner, Gibson, Dunn & Crutcher

Tuesday – July 17

Meeting with staff and Doug Elliott – Partner, Oliver Wyman
Meeting with Bruce Van Saun – CEO, Citizens Bank
Meeting with reporter
Meeting with Neighborhood Reinvestment Coalition board members
Conference call with James Gorman – CEO, Morgan Stanley
Financial Stability Oversight Council Meeting

Wednesday – July 18

Public speech at American Bankers Association Summer Leadership Meeting
Conference call with Kelly King – CEO, BB&T

Thursday – July 19

Meeting with Howard Headlee – President, Utah Bankers Association

Friday – July 20

Conference call with Senator Pat Toomey (PA)
Meeting with staff and Nicolas Dujovne – Treasury Minister of Argentina
Meeting with staff and Haruhiko Kuroda – Governor, Bank of Japan
Meeting with staff and Luis Caputo – President, Central Bank of Argentina

Saturday – July 21

Meeting with staff and Bill Morneau – Finance Minister, Canada
Meeting with staff and Francois Villeroy de Galhau – Governor, Banque De France
Session organized by International Monetary Fund

Sunday – July 22

G7 Meeting
G7 Meeting

Monday – July 23

Conference call with Kevin Hassett – Chairman, Council of Economic Advisers
Council of Economic Advisors luncheon
Meeting with staff and Andy Cecere – U.S. Bank CEO

Wednesday – July 25

Conference call with Senator Tom Carper (DE)
Meeting with Representative Bill Huizenga (MI)

Thursday – July 26

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Conference call with OCC Comptroller Otting and FDIC Chairman McWilliams
Conference call with FDIC Chairman McWilliams
Conference call with Dirk Kempthorne – CEO, American Council of Life Insurers

Monday – July 30

Meeting with staff and OCC Comptroller Otting; FDIC Chairman McWilliams; Financial Crimes Enforcement Network Director Kenneth Blanco; National Credit Union Administration Chairman J. Mark McWatters; and U.S. Treasury Under Secretary Sigal Mandelker.

Vice Chair for Supervision Randal K. Quarles
August 2018 Calendar

Thursday – August 2

Conference call with Doug Elliott – Partner, Oliver Wyman; and Til Schuermann – Partner, Oliver Wyman
Remarks at Federal Reserve Bank of Atlanta policy conference

Friday – August 3

Conference call with Joe Echevarria – Director, Bank of New York Mellon

Monday – August 6

Conference call with Jeff Campbell – CFO, American Express

Wednesday – August 8

Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Conference call with Comptroller of the Currency (OCC) Joseph Otting and Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams

Friday – August 10

Conference call with Keith Noreika – Partner, Simpson Thacher

Monday – August 13

Meeting with staff and large bank CEOs: Jeff Brown – CEO, Ally; Nadita Bakshi – CEO, BancWest; Chris Begy – CEO, BMO; Onur Genc – CEO, BBVA; Ellen Alemany – CEO, CIT; Ralph Babb – CEO, Comerica Bank; David Nelms – CEO, Discover Financial Services; Greg Carmichael – CEO, Fifth Third; Steve Steinour – CEO, Huntington Bancshares, Inc; Beth Mooney – CEO, KeyCorp; Rene Jones – CEO, M&T; Michael O’Grady – CEO, Northern Trust; Grayson Hall – CEO, Regions; Bill Rogers – CEO, SunTrust; Harris Simmons – CEO, Zions

Tuesday – August 14

Meeting with Tobias Adrian – Director, Monetary and Capital Markets Director, International Monetary Fund (IMF)

Meeting with staff and Jay Hooley – CEO, State Street

Wednesday – August 15

Meeting with staff and global systemically important bank CFOs: Andrei Magasiner – Bank of America; Michael Santomassimo – BNY Mellon; John Gerspach – Citigroup; Marty Chavez and Brian Lee – Goldman Sachs; Marianne Lake – JPMorgan Chase; Jonathan Pruzan – Morgan Stanley; Eric Abouf – State Street; John Shrewsbury – Wells Fargo

Meeting with Hal Scott – Professor, Harvard Law School

Thursday – August 16

Meeting with Sandie O’Connor – Chief Regulatory Officer, JPMorgan Chase

Meeting with Sean Hagan – General Counsel, IMF

Meeting with reporter

Conference call with Rob Nichols – President, American Bankers Association

Monday – August 20

Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting

Tuesday – August 21

Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Conference call with Sir Jon Cunliffe – Deputy Governor, Bank of England

Meeting with Adebayo Ogunlesi – Director, Goldman Sachs

Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Thursday – August 23

Meeting with reporter

Meeting with reporter

Meeting with reporter

2018 Federal Reserve Bank of Kansas City Economic Policy Symposium opening reception and dinner

Friday – August 24

Conference call with Odile Renaud-Basso – Director General, French Treasury

Meeting with Agustin Carstens – General Manager, Bank of International Settlements

Conference reception and dinner meeting (Jackson Hole, WY)

Saturday – August 25

Meeting with reporter

Conference dinner meeting

Monday – August 27

Conference call with Marcelo Esteveao – Deputy Minister for International Affairs, Ministry of Finance in Brazil

Conference call with Andrew Olmem – Special Assistant to the President

Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting

Tuesday – August 28

Conference call with Randall Guynn – Partner, Davis Polk & Wardwell; and Luigi DeGhenghi – Partner, Davis Polk & Wardwell

Wednesday – August 29

Conference call with Jens Weidmann – President, Deutsche Bundesbank

Thursday – August 30

Conference call with Joaquim Levy – Managing Director, World Bank

Conference call with Ilan Goldfajn – Governor, Central Bank of Brazil

Conference call with Pablo Hernández de Cos – Governor, Bank of Spain

Conference call with Felix Hufeld – President, BaFin

Conference call with Alexander Karrer – State Secretariat for International Financial Matters, Switzerland

Friday – August 31

Conference call with Securities and Exchange Commission Chairman Jay Clayton

Vice Chair for Supervision Randal K. Quarles
September 2018 Calendar

Tuesday – September 4

Conference call with Senator Mike Crapo (R-ID)

Wednesday – September 5

Conference call with Hans Hoogervorst – Chair, International Accounting Standards Board

Meeting with staff and Teiji Teramoto – CEO, Mizuho Americas

Conference call with Mark Carney – Governor, Bank of England

Speaking at Wharton School at the University of Penn

Thursday – September 6

Conference call with Securities and Exchange Commission (SEC) Chairman Jay Clayton

Meeting with staff and Doug Elliott – Partner, Oliver Wyman

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Meeting with staff and Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams;

National Credit Union Administration Chairman J. Mark McWatters; Comptroller of the Currency (OCC)

Joseph Otting

Conference call with Keith Noreika – Partner, Simpson Thacher

Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment

Policy, U.S. Treasury

Friday – September 7

Federal Advisory Council meeting

Conference call with Jeremy Rudin – Superintendent, Office of the Superintendent of Financial

Institutions, Canada

Financial Stability Board (FSB) conference call

Conference call with Commodity Futures Trading Commission (CFTC) Chairman J. Chris Giancarlo

Saturday – September 8

Bank for International Settlements (BIS) meeting

BIS dinner meeting

Sunday – September 9

Financial Stability Institute meeting

BIS dinner

Monday – September 10

Conference call with Diane Brown – Acting Deputy Secretary, Australian Treasury

Conference Call with OCC Comptroller Otting and FDIC Chairman McWilliams

Conference call with Andrew Olmstead – Special Assistant to the President

Conference call with Masa Kono – Deputy Secretary-General, Organization for Economic Co-operation and Development

Meeting with staff and Victoria Saporta – Executive Director, Prudential Policy Directorate, Bank of England

Tuesday – September 11

FSB meeting
Meeting with staff and Mark Branson – CEO, Swiss Financial Markets Supervisory Authority
Conference call with Andrew Bailey – CEO, Financial Conduct Authority, United Kingdom
FSB dinner meeting
Conference call with Senator Sherrod Brown (OH)

Thursday – September 13

Conference call with Bini Smaghi – Chairman, Societe Generale
Conference call with Christian Sewing – CEO, Deutsche Bank
Conference call with SEC Chairman Clayton
Conference call with Bank of America Board of Directors
Conference call with Ryozi Himino – Vice Minister, Japanese Financial Services Agency

Friday – September 14

Conference call with U.S. Treasury Secretary Steven Mnuchin, CFTC Chairman Giancarlo, SEC Chairman Clayton, and Reserve Bank President
Conference call with Charlie Scharf – CEO, BNY Mellon

Monday – September 17

Interagency call with FDIC Chairman Jelena McWilliams

Tuesday – September 18

Conference call with Andrew Bailey – CEO, Financial Conduct Authority, United Kingdom
Conference call with CFTC Chairman Giancarlo
Conference call with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Conference call with OCC Comptroller Otting

Wednesday – September 19

Meeting with Senator Mark Warner (VA)
Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Thursday – September 20

Conference call with Masatsugu Asakawa – Vice Minister, Japan Ministry of Finance

Friday – September 21

Conference call with reporter
FSB conference call
Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Sunday – September 23

Meeting with Ryozi Himino – Vice Minister, Japanese Financial Services Agency
FSB dinner meeting

Monday – September 24

Meeting with staff and Jorg Kukies – State Secretary, Ministry of Finance, Germany
FSB meeting
FSB reception

Tuesday – September 25

Conference call with FDIC Chairman McWilliams

Thursday – September 27

Meeting with Andrew Olmem – Special Assistant to the President
Conference call with Ravi Menon – Managing Director, Monetary Authority of Singapore
Conference call with Senator Sherrod Brown (OH)
Speech at International Monetary Fund's Law and Financial Stability seminar
Conference call with Rob Nichols – President, American Bankers Association

Friday – September 28

Conference call with Olivier Guersent – Director General, European Commission
Conference call with Sir Jon Cunliffe – Deputy Governor, Bank of England
Conference call with Sam Woods – CEO, Prudential Regulation Authority, Bank of England

Vice Chair for Supervision Randal K. Quarles
October 2018 Calendar

Monday – October 1

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Meeting with staff and Joe Echevarria – Director, BNY Mellon
Meeting with staff and Randall Guynn – Partner, Davis Polk & Wardwell; Luigi De Ghenghi – Partner, Davis Polk & Wardwell; Michael Pease – Managing Director, Goldman Sachs
Meeting with staff and Richard Sandor – CEO, American Financial Exchange
Conference call with Comptroller of the Currency (OCC) Joseph Otting
Meeting with Christine Edwards – Partner, Winston & Strawn
Conference call with Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams
Conference call with Briget Polichene – CEO, Institute of International Bankers

Tuesday – October 2

Senate Banking Committee hearing
Conference call with Bill Demchak – CEO, PNC Bank
Meeting with staff and OCC Comptroller Otting; FDIC Chairman McWilliams; J. Mark McWatters – Chairman, National Credit Union Administration; Kenneth Blanco – Director, Financial Crimes Enforcement Network; and Acting Deputy Secretary of the U.S. Treasury Sigal Mandelker
Financial Stability Board (FSB) conference call
Meeting with staff and FDIC Chairman McWilliams
Meeting with staff and Brian Moynihan – CEO, Bank of America; David Solomon – CEO, Goldman Sachs; Michael Corbat – CEO, Citi; Jamie Dimon – CEO, JPMorgan Chase; James Gorman – CEO, Morgan Stanley; Joseph Hooley – CEO, State Street; Charlie Scharf – CEO, BNY Mellon; and Tim Sloan – CEO, Wells Fargo.

Wednesday – October 3

FSB conference call
Meeting with staff and John Turner – CEO, Regions Financial Corporation
Conference call with staff
Meeting with staff and Kenneth Bentsen – CEO, Securities Industry and Financial Markets Association

Thursday – October 4

Public speech and Federal Reserve Bank of St. Louis and Conference of State Bank Supervisors conference: 6th Annual Community Banking in the 21st Century Research and Policy Conference
Meeting with Reserve Bank Board of Directors
Conference call with Daniel Tarullo – Professor, Harvard Law School

Friday – October 5

Conference call with Andrew Olmem – Special Assistant to the President
Conference call with Keith Noreika – Partner, Simpson Thacher & Bartlett

Thursday – October 11

Meeting with staff and Olaf Scholz – Federal Minister of Finance, Germany; and Jorg Kukies – Deputy Federal Minister of Finance, Germany

Friday – October 12

Meeting with staff and Pablo Hernandez de Cos – Governor, Bank of Spain
 Meeting with staff and Odile Renaud-Basso – Director, French Treasury
 Meeting with staff and Francois Villeroy de Galhau – Governor, Banque de France
 Meeting with staff and José Antonio Álvarez – CEO, Santander
 Conference call with FDIC Chairman McWilliams
 Conference call with OCC Comptroller Otting

Saturday – October 13

Public discussion at Institute of International Finance meeting
 Meeting with staff and Hans-Walter Peters – President, Association of German Banks
 Meeting with staff and Carolyn Wilkins – Senior Deputy Governor, Bank of Canada
 Meeting with Sir Andrew Large – Chairman, Oliver Wyman
 Meeting with staff and Valdis Dombrovskis – Vice President, European Commission

Monday – October 15

Conference call with reporter
 Conference call with James Gorman – CEO, Morgan Stanley
 Meeting with staff and Cory Reed – President, John Deere Financial

Tuesday – October 16

Conference call with Jens Weidmann – President, Bundesbank
 Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting
 Financial Stability Oversight Council Meeting

Wednesday – October 17

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
 Conference call with staff and FDIC Chairman McWilliams and OCC Comptroller Otting
 Meeting with Hal Scott – Professor, Harvard University

Thursday – October 18

Public speech at Economic Club of New York
 Alternative Reference Rates Committee meeting

Friday – October 19

Meeting with Tidjane Thiam – CEO, Credit Suisse
 Conference call with Rodgin Cohen – Partner, Sullivan & Cromwell

Sunday – October 21

FSB dinner

Monday – October 22

FSB meeting
 FSB dinner meeting

Tuesday – October 23

Meeting with staff and CFOs; John C. Gerspach – Citi; Paul Michael Donofrio – Bank of America; Marianne Lake – JPMorgan Chase; Michael Santomassimo – Bank of New York Mellon; Eric Aboaf – State Street; Harvey Schwartz – Goldman Sachs; and Jonathan Pruzan – Morgan Stanley.

Wednesday – October 24

Conference call with OCC Comptroller Otting
Meeting with staff and Goldman Sachs Board of Directors: Adebayo O. Ogunesi; Lakshmi Mittal; Ellen Kullman; James A. Johnson; William W. George; Mark Flaherty; Drew Faust; M. Michele Burns; Lloyd Blankfein; Mark O. Winkelman; David A. Viniar; Peter Oppenheimer; and David Solomon.

Thursday – October 25

Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury
Meeting with Senator Chris Van Hollen (MD)
Meeting with Jan Hatzius – Chief Economist, Goldman Sachs
Meeting with staff and Utah Financial Services Association and National Association of Industrial Bankers (NAIB): Howard Headlee – CEO, Utah Bankers Association; and Doyle Bartlett – Director, NAIB

Friday – October 26

Conference call with Representative Blaine Luetkemeyer (MO)

Monday – October 29

Conference call with Mark Carney – Governor, Bank of England
Conference call with Bimal Patel – Deputy Assistant Secretary for the Financial Stability Oversight Council, U.S. Treasury

Tuesday – October 30

Conference call with Mark Carney – Governor, Bank of England
Conference call with Senator Mike Crapo (ID)
Conference call with David Malpass – Under Secretary of the Treasury for International Affairs, U.S. Treasury

Wednesday – October 31

Meeting with staff and OCC Comptroller Otting; FDIC Chairman McWilliams; J. Mark McWatters – Chairman, National Credit Union Administration; Kenneth Blanco – Director, Financial Crimes Enforcement Network; and Acting Deputy Secretary of the U.S. Treasury Sigal Mandelker.
Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Conference call with Senator Pat Toomey (PA)

Vice Chair for Supervision Randal K. Quarles
November 2018 Calendar

Thursday – November 1

Meeting with staff and Alex Karrer – Deputy State Secretary, Swiss Federal Department of Finance

Friday – November 2

Conference call with Andrew Olmem – Special Assistant to the President

Conference call with Michael O'Neil – Chairman, Citigroup

Monday – November 5

Meeting with staff and Ronald Kent – Managing Director, UK Finance

Tuesday – November 6

Conference call with Jens Weidmann – President, Deutsche Bundesbank

Conference call with David Malpass – Under Secretary of the Treasury for International Affairs, U.S. Treasury

Wednesday – November 7

Financial Stability Board (FSB) conference call

Thursday – November 8

Conference call with Klaas Knot – President, De Nederlandsche Bank

Conference call with Klaas Knot – President, De Nederlandsche Bank; and Jens Weidmann – President, Deutsche Bundesbank

Friday – November 9

Public speech at Brookings Institution

Conference call with Treasury Secretary Steven Mnuchin; Securities and Exchange Commission

Chairman Jay Clayton; and Commodity Futures Trading Commission Chairman J. Chris Giancarlo.

Meeting with Rene Jones – Chairman and CEO, M&T Bank

Tuesday – November 13

Meeting with staff and Craig Phillips – Counselor to the Secretary, U.S. Treasury

Meeting with Representative Jeb Hensarling (TX)

Conference of Chairs reception and dinner

Wednesday – November 14

House Financial Services Committee testimony

Meeting with staff and Conference of State Bankers Supervisors (CSBS): Bret Afdahl – Director, South Dakota Division of Banking; Charlotte Corley – Commissioner, Mississippi Department of Banking; Albert Forkner – Commissioner, Wyoming Division of Banking; Melanie Hall – Commissioner, Montana Division of Banking and Financial Institutions; Kevin Hagler – Commissioner, Georgia Department of Banking & Finance; John Ryan – President and CEO, CSBS; and Bryan Schneider – Secretary, Illinois Department of Financial Services and Professional Regulation.

Thursday – November 15

Senate Banking Committee testimony

Conference call with reporter
Meeting with Senator Mike Crapo (ID)

Friday – November 16

Symposium sponsored by Harvard Law School Program on International Financial Systems
Conference call with Luigi De Ghenghi – Partner, Davis Polk & Wardwell

Monday – November 19

Conference call with Mark Carney – Governor, Bank of England
Conference call with reporter
Conference call with Luigi De Ghenghi – Partner, Davis Polk & Wardwell

Tuesday – November 20

Conference call with staff and Alan Blinder – Professor, Princeton University; and Benn Steil – Senior Director, Council on Foreign Relations
Conference call with Randall Guynn – Partner, Davis Polk & Wardwell; and Luigi De Ghenghi – Partner, Davis Polk & Wardwell

Friday – November 23

Conference call with Jens Weidmann – President, Deutsche Bundesbank

Sunday – November 25

Conference call with Klaas Knot – President, De Nederlandsche Bank; and Deitrich Domanski – Secretary General, FSB

Monday – November 26

FSB conference call
Meeting with staff and CFOs; Richard Fairbank – Capital One; Bill Demchak – PNC Bank; Kelly King – BBT; Andrew Cecere – USB
Meeting with Darryl White – CEO, Bank of Montreal; and Dave Casper – U.S. CEO, Bank of Montreal

Tuesday – November 27

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Conference call with Jes Staley – CEO, Barclays
Meeting with staff and Beth Mooney – CEO, KeyCorp
Meeting with Arthur Long – Partner, Gibson, Dunn & Crutcher
Meeting with staff and Tom Naratil – President, UBS Americas
Meeting with Tom Vartanian – Professor, George Mason University
Meeting with Representative Trey Hollingsworth (IN)
Meeting with Senator Mike Rounds (SD)

Wednesday – November 28

Meeting with Kevin Fromer – CEO, Financial Services Forum
Conference call with Agustin Carstens – General Manager, Bank for International Settlements
Meeting with staff and Ed Tilly – CEO, Cboe Global Markets
Meeting with Catherine McGuinness – City of London Corporation
Meeting with Senator Thom Tillis (NC)

Thursday – November 29

Meeting with staff and Christian Sewing – CEO, Deutsche Bank

Trilateral meeting with staff and Daniele Nuoy – Chair, Supervisory Board of the European Central Bank;
and Sam Woods – CEO, United Kingdom Prudential Regulation Authority
FSB conference call

Friday – November 30

FSB meeting

Vice Chair for Supervision Randal K. Quarles
December 2018 Calendar

Monday – December 3

Public discussion at the Council for Foreign Relations
 Meeting with staff and James Gorman – CEO, Morgan Stanley
 Meeting with staff and Jamie Dimon – CEO, JPMorgan Chase
 Conference call with Keith Noreika – Partner, Simpson Thacher

Tuesday – December 4

Meeting with staff and J. Chris Giancarlo – Chairman, Commodity Futures Trading Commission
 Federal Financial Institutions Examination Council meeting
 Meeting with staff and Federal Deposit Insurance Corporation (FDIC) Chair Jelena McWilliams; National Credit Union Administration Chairman J. Mark McWatters; Acting Deputy Secretary of the U.S. Treasury Sigal Mandelker; and Comptroller of the Currency (OCC) Joseph Otting.

Wednesday – December 5

Conference call with FDIC Chairman McWilliams and Comptroller Otting
 Conference call with Securities and Exchange Commission (SEC) Chairman Jay Clayton
 Meeting with John Taylor – Professor, Stanford University
 Meeting with Monika Piazzesi – Professor, Stanford University
 Meeting with Darrell Duffie – Professor, Stanford University
 Public remarks at State of the West conference
 Reception and dinner

Thursday – December 6

Conference call with Randall Guynn – Partner, Davis Polk & Wardwell; and Luigi De Ghenghi – Partner, Davis Polk & Wardwell
 Federal Advisory Committee (FAC) dinner

Friday – December 7

FAC meeting
 Financial Stability Board meeting with staff
 Meeting with staff and David Schwimmer – CEO, London Stock Exchange Group
 Conference call with Randall Guynn – Partner, Davis Polk & Wardwell; and Luigi De Ghenghi – Partner, Davis Polk & Wardwell.

Tuesday – December 11

Meeting with Senator David Perdue (GA)
 Conference call with Brian Hook – Senior Policy Advisor, U.S. Department of State
 Meeting with FDIC Chairman McWilliams
 Financial and Banking Information Infrastructure Committee meeting
 President's Working Group on Financial Market meeting
 Conference call with Representative John Faso (NY)

Wednesday – December 12

Conference call with Sam Woods – CEO, United Kingdom Prudential Regulation Authority
 Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Meeting with staff and Susan Neely – CEO, American Council of Life Insurers

Friday – December 14

Conference call with Mark Carney – Governor, Bank of England

Monday – December 17

Meeting with Senator Catherine Cortez-Masto (NV)

Tuesday – December 18

Meeting with SEC Chairman Clayton

Wednesday – December 19

Financial Stability Oversight Committee Meeting

Friday – December 21

Conference call with Arthur Yuen – Deputy Chief Executive, Hong Kong Monetary Authority

Conference call with Richard Fairbank – CEO, Capital One

Conference call with Kevin Fromer – CEO, Financial Services Forum

Wednesday – December 26

Conference call with reporter

Conference call with Liu Chunhang – Director, China Banking Regulatory Commission

Conference call with Ryozo Himino – Vice Minister, Japan Financial Services Agency

Friday – December 28

Conference call with Pablo Hernandez de Cos – Governor, Spanish Central Bank

Monday – December 31

Conference call with Klaas Knot – President, De Nederlandsche Bank

**Vice Chair for Supervision Randal K. Quarles
January 2019 Calendar**

Thursday – January 3

Conference call with Greg Baer – CEO, Bank Policy Institute
Conference call with Comptroller of the Currency (OCC) Joseph Otting and Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams

Monday – January 7

Meeting with staff and Systemic Risk Council: Sir Paul Tucker, and Sheila Bair
Meeting with reporters
Meeting with staff and Paul Stevens – CEO, Intercontinental Exchange
Meeting with staff and Americans for Financial Reform
Meeting with staff and Bill Demchak – CEO, PNC Bank

Tuesday – January 8

Meeting with Council of Economic Advisors
Meeting with staff and Greg Baer – CEO, Bank Policy Institute
Meeting with staff and Richard Haworth – CEO, Barclays US

Wednesday – January 9

Attend and speak at American Council of Life Insurers Executive Roundtable

Thursday – January 10

Conference call with Klaas Knot – President, De Nederlandsche Bank
Meeting with staff and Greg Braca – CEO, TD Bank
Meeting with staff and Institute of International Bankers (IIB): Briget Polichene – CEO, IIB; Angelo Aldana – Chairman, IIB; Pererik Dyrvik – Vice Chairman, IIB; and Stephanie Webster – General Counsel, IIB.
Conference call with Randall Guynn – Partner, Davis Polk & Wardwell

Friday – January 11

Conference call with Sean Kevelighan – CEO, Insurance Information Institute
Conference call with Treasury Secretary Steven Mnuchin; Securities and Exchange Commission (SEC) Chairman Jay Clayton; and FDIC Chairman McWilliams
Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting

Saturday – January 12

Meeting with staff and Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Sunday – January 13

Meeting with Ryozi Himino – Vice Minister, Japanese Financial Services Agency
Meeting with staff and Klaas Knot – President, De Nederlandsche Bank
Financial Stability Board (FSB) meeting
Meeting with staff and Jorg Kukies – State Secretary, German Ministry of Finance
Meeting with Klaas Knot – President, De Nederlandsche Bank
FSB Meeting

Meeting with OCC Comptroller Otting

Monday – January 14

Bank for International Settlements (BIS) meeting
BIS meeting

Tuesday – January 15

Conference call with Greg Carmichael – CEO, Fifth Third Bank
Meeting with Tim Buckley – CEO, Vanguard

Wednesday – January 16

Meeting with Andrew Olm – Special Assistant to the President
Conference call with James Gorman – CEO, Morgan Stanley
Conference call with SEC Chairman Jay Clayton
Meeting with Senator Pat Toomey (PA)
Meeting with Scott O'Malia – CEO, International Swaps and Derivatives Association

Thursday – January 17

Meeting with reporter
Public discussion at Insurance Information Institute
Meeting with reporter
Conference call with Sandy O'Connor – Chief Regulatory Affairs Officer, JPMorgan Chase

Tuesday – January 22

Meeting with staff and Elke König – Chair, European Single Resolution Board

Wednesday – January 23

Meeting with Justin Muzinich – Deputy Secretary, U.S. Treasury
Conference call with Denis Beau – Deputy Governor, Banque de France
Conference call with FDIC Chairman McWilliams
Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury
Meeting with Robert Kimmitt – Senior International Counsel, WilmerHale; and Stephen Preston – Partner, WilmerHale

Thursday – January 24

Conference call with Sir Jon Cunliffe – Deputy Governor, Bank of England
Meeting with OCC Comptroller Otting and FDIC Chairman McWilliams
Conference call with Senator Mike Crapo (ID)
Meeting with Justin Muzinich – Deputy Secretary, U.S. Treasury

Friday – January 25

Conference call with FDIC Chairman McWilliams
Conference call with OCC Comptroller Otting
Conference call with SEC Chairman Jay Clayton

Monday – January 28

Conference call with Mark Carney – Governor, Bank of England

Meeting with staff and Ould Abdel Aziz Dahi – Governor, Central Bank of Mauritania

Wednesday – January 30

Conference call with Randall Gwynn – Partner, Davis Polk & Wardwell; and Luigi De Ghenghi – Partner, Davis Polk & Wardwell

Meeting with staff and Giovanni Tria – Italian Minister of Economy and Finance

Meeting with staff and Thilo Schweizer – Head of European Affairs, Commerzbank

Thursday – January 31

Meeting with Thomas Philippon – Professor, New York University

Conference call with Ravi Menon – Managing Director, Monetary Authority of Singapore

Meeting with Morgan Stanley board of directors

Conference call with Senator Tom Cotton (AR)

Vice Chair for Supervision Randal K. Quarles
February 2019 Calendar

Friday – February 1

Conference call with Jens Weidmann – President, Deutsche Bundesbank
Conference call with Thomas Jordan – Chairman, Swiss National Bank
Conference call with Claudia Buch – Vice President, Bundesbank
Conference call with Rene Jones – CEO, M&T Bank
Conference call with Francois Villeroy de Galhau – Governor, Banque de France
Meeting with Randy Katzenstein – CEO, OBEX Group
Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury
Conference call with Kelly King – CEO, BB&T Bank

Monday – February 4

Conference call with Ignazio Visco – Governor, Bank of Italy
Conference call with Joe Engelhard – Senior Vice President, MetLife
Meeting with staff and Charlie Scharf – CEO, BNY Mellon
Meeting with John Hauge – CFO, Global LPG Partnership
Meeting with staff and Eric Varvel – Managing Director, Credit Suisse

Tuesday – February 5

Meeting with reporter
Meeting with staff and Doug Elliot – Partner, Oliver Wyman; and Til Schuermann – Partner, Oliver Wyman
Meeting with Council of Economic Advisers
Meeting with Representative French Hill (AR)

Wednesday – February 6

Conference call with Ravi Menon – Managing Director, Monetary Authority of Singapore
Conference call with Axel Weber – Chairman, UBS
Conference call with James Gorman – CEO, Morgan Stanley
Meeting with staff and Walter Kielhoz – Chairman, Swiss Re
Meeting with staff and Joachim Wuermeling – Executive Board, Bundesbank
Reception for Council for Economic Education
Public speech at Council for Economic Education

Thursday – February 7

Conference call with Commodity Futures Trading Commission (CFTC) Chairman J. Chris Giancarlo and Securities and Exchange Commission (SEC) Chairman Jay Clayton
Meeting with Sir Jon Cunliffe – Deputy Governor, Bank of England
Meeting with staff and Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams; Sir Jon Cunliffe – Deputy Governor, Bank of England; and CFTC Chairman Giancarlo
Meeting with FDIC Chairman McWilliams
Meeting with Federal Advisory Council members

Sunday – February 9

Bank for International Settlements (BIS) meeting
BIS reception and dinner
Meeting with Norman Chan – CEO, Hong Kong Monetary Authority

Monday – February 11

Meeting with Ravi Menon – Managing Director, Monetary Authority of Singapore
BIS meeting
BIS dinner meeting

Wednesday – February 13

Conference call with Marianne Lake – CFO, JPMorgan Chase
Treasury Borrowing Advisory Council meeting
Meeting with staff and Ken Bentsen – CEO, SIFMA
Meeting with staff and Mary Shapiro – Special Advisor, Bloomberg LP
Meeting with staff and Yazuhiko Sato – Chairman, Mizuho Financial Group
Conference call with Barbara Novick – Vice Chairman, BlackRock

Friday – February 15

Conference call with Jens Weidmann – Governor, Deutsche Bundesbank
Call with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Tuesday – February 19

Conference call with Klaas Knot – President, De Nederlandsche Bank
Meeting with FDIC Chairman McWilliams and Comptroller of the Currency Joseph Otting
Meeting with staff and H. Rodgin Cohen – Partner, Sullivan & Cromwell
Meeting with staff and Ana Botin – Chairman, Santander
Conference call with Rob Nichols – CEO, American Bankers Association

Wednesday – February 20

Conference call with Dietrich Domanski – Secretary General, Financial Stability Board

Thursday – February 21

Conference call with Jeremy Rudin – Superintendent, Office of the Superintendent of Financial Institutions, Canada OSFI Canada
Conference call with Ryozi Himino – Vice Commissioner, Japanese Financial Services Agency
Conference call with Lesetja Kganyago – Governor, South African Reserve Bank
Meeting with staff and Tim Adams – CEO, Institute of International Finance
Meeting with Jamie Dimon – CEO, JPMorgan Chase
Meeting with staff and Brian Tishuk – Executive Director, Financial Services Sector Coordinating Council
Meeting with Clay Lowery – Vice President, Rock Creek Advisors
Conference call with SEC Chairman Jay Clayton
Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment Policy, U.S. Treasury

Friday – February 22

Attend U.S. Monetary Policy Forum
Public speech at U.S. Monetary Policy Forum

Monday – February 25

Conference call with Francois Villeroy de Galhau – Governor, Banque de France
Conference call with Sir Jon Cunliffe – Deputy Governor, Bank of England

Tuesday – February 26

Meeting with staff and Al Kelly – CEO, Visa
Conference call with Klaas Knot – President, De Nederlandsche Bank
Meeting with staff and Marvin Barth – Head of FX and EX Macro Strategy, Barclays
Meeting with John Dugan – Chairman, Citigroup

Wednesday – February 27

Conference call Andrew Olmem – Special Assistant to the President
Conference call with Laura Walters – Federal Bureau of Investigation
Meeting with staff and Roger Ferguson – CEO, TIAA
Meeting with Senator Tom Cotton (AR)

Thursday – February 28

Meeting with Larry Meyer – President, Monetary Policy Analytics

Vice Chair for Supervision Randal K. Quarles
March 2019 Calendar

Friday – March 1

Conference call with Bridget Polichene – CEO, Institute of International Bankers
Conference call with Wilson Ervin – Vice Chairman, Credit Suisse

Tuesday – March 5

Conference call with Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams and
Comptroller of the Currency (OCC) Joseph Otting
Conference call with reporter

Wednesday – March 6

Bank for International Settlements conference call
Financial Stability Oversight Council meeting

Friday – March 8

Conference call with OCC Comptroller Otting
Conference call with Charlie Scharf – CEO, BNY Mellon

Monday – March 11

Conference call with FDIC Chairman McWilliams
Meeting with Republican Senators from the Senate Banking Committee

Tuesday – March 12

Conference call Andrew Olmstead – Special Assistant to the President
President's Working Group on Financial Markets meeting
Conference call with Representative Blaine Luetkemeyer (MO)

Wednesday – March 13

Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting
Conference call with Frank Elderson – Executive Director of Supervision, De Nederlandsche Bank
Meeting with Board Members and Community Reinvestment Coalition
Meeting with Representative Maxine Waters (CA)

Thursday – March 14

Conference call with Senator Dan Sullivan (AK)
Conference call with Reserve Bank President

Friday – March 15

Conference call with Heath Tarbert – Assistant Secretary for International Markets and Investment
Policy, U.S. Treasury

Monday – March 18

Joint Conference of Presidents meeting

Wednesday – March 20

Conference call with Randall Guynn – Partner, Davis Polk & Wardwell
 Conference call with Sir Jon Cunliffe – Deputy Governor, Bank of England
 Meeting with staff and OCC Comptroller Otting; FDIC Chairman McWilliams; Financial Crimes
 Enforcement Network Director Kenneth Blanco; National Credit Union Administration Chairman J. Mark
 McWatters; and U.S. Treasury Under Secretary Sigal Mandelker.

Thursday – March 21

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Friday – March 22

Conference call with Jorg Kukies – State Secretary, German Ministry of Finance
 Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting
 Meeting with David Solomon – CEO, Goldman Sachs

Monday – March 25

Conference call with reporter

Wednesday – March 27

Meeting with staff and Mario Draghi – President, European Central Bank (ECB)
 Meeting staff and Peter Praet – Board Member, ECB
 Meeting with staff and Benoît Coeure – Board Member, ECB
 Meeting with staff and Yves Mersch – Board Member, ECB
 Meeting with staff and Andrea Enria – Chair, ECB Supervisory Board

Thursday – March 28

Meeting with staff and Felix Hufeld – President, German Federal Financial Supervisory Authority
 Meeting with staff and Luis de Guindos – Vice President, ECB
 Public speech at the Joint Conference of the ECB and the Journal of Money, Credit, and Banking
 conference

Friday – March 29

Conference call with FDIC Chairman McWilliams
 Conference call with James Gorman – CEO, Morgan Stanley
 Public speech at Spring 2019 meeting of the Manhattan Institute
 Meeting with staff and global systemically important banks' Chief Financial Officers: Paul Donofrio –
 Bank of America; Michael Santomassimo – BNY Mellon; Mark Mason – Citi; Stephen Scherr and Brian
 Lee – Goldman Sachs; Ali Moffitt – JPMorgan Chase; Sid Visentini – Morgan Stanley; Eric Aboaf – State
 Street; and Neal Blin – Wells Fargo.
 Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting

Vice Chair for Supervision Randal K. Quarles
April 2019 Calendar

Monday – April 1

Meeting with staff and Jean Lemierre – Chairman, BNP Paribas; Paul Achleitner – Chairman of the Supervisory Board, Deutsche Bank; Gabriele Galateri di Genola – Chairman, Generali; John McFarlane – Chairman, Barclays; Urs Rohner – Chairman, Credit Suisse; and Alex Wynaendts – CEO, Aegon
 Meeting with Paul Achleitner – Chairman of the Supervisory Board, Deutsche Bank

Tuesday – April 2

Meeting with staff and Jean Lemierre – Chairman, BNP Paribas
 Meeting with staff and Mark Rosen – nominee for International Monetary Fund
 Meeting with staff and Davide Serra – CEO, Albegris Investments
 Conference call with staff and Gerben Everts – Board Member, Dutch Authority for the Financial Markets
 Public speech at European Bank Executive Committee Forum
 Meeting with Klaas Knot – President, De Nederlandsche Bank

Wednesday – April 3

Meeting with staff and Antonio Horta-Osorio – CEO, Lloyds Banking Group

Thursday – April 4

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
 Meeting with Representative Ann Wagner (MO)
 Conference call with Marianne Lake – CEO of Consumer Lending, JPMorgan Chase
 Conference call with Brian Moynihan – CEO, Bank of America

Friday – April 5

Community Depository Institutions Advisory Council meeting

Monday – April 8

Meeting with Representative Frank Lucas (OK)
 Conference call with Adam Lerrick – Counselor to the Secretary, U.S. Treasury
 Meeting with Representative Barry Loudermilk (GA)
 Meeting with Representative Blaine Luetkemeyer (MO)
 Meeting with Representative Steve Stivers (OH)
 Conference call with David Solomon – CEO, Goldman Sachs

Tuesday – April 9

Financial Stability Board (FSB) conference call
 Conference call with OCC Comptroller Otting and FDIC Chairman McWilliams
 Meeting with staff and Thomas Jordan – Chairman, Swiss National Bank
 Meeting with Consumer Financial Protection Bureau Director Kathy Kraninger and Board Member
 Conference call with Klaas Knot – President, De Nederlandsche Bank
 Meeting with staff and Ryozo Himino – Vice Minister, Japanese Financial Services Agency
 Conference call with Tim Ryan – Chairman, Santander

Public discussion at George Mason University

Wednesday – April 10

Meeting with staff and Per Callesen – Governor, National Bank of Denmark
 Meeting with staff and Commodity Futures Trading Commission (CFTC) Chairman J. Chris Giancarlo; and
 Andrew Bailey – Chief Executive, U.K. Financial Conduct Authority
 FSB Roundtable on Reforming Major Interest Rate Benchmarks

Thursday – April 11

Meeting with staff and American Bankers Association Economic Advisory Council
 Meeting with staff and Villeroy de Galhau – Governor, Banque de France
 Meeting with staff and Jes Staley – CEO, Barclays
 Meeting with staff and Andrea Enria – Chair, European Central Bank Supervisory Board
 Meeting with staff and Bharat Masrani – CEO, TD Bank
 U.S. Treasury's Roundtable at World Bank and International Monetary Fund (IMF) meetings
 Conference call with Carolyn Wilkins – Senior Deputy Governor, Bank of Canada
 Meeting with Fernando Restoy – Chairman, Financial Stability Institute, Bank for International
 Settlements
 Meeting with staff and Christian Ossig – CEO, Association of German Banks
 Meeting with staff and Andrew Bailey – Chief Executive, U.K. Financial Conduct Authority
 G20 Finance Ministers and Central Bank meeting

Friday – April 12

Meeting with staff and Valdis Dombrovskis – Vice President, European Commission
 Meeting with staff and Hiro Mizuno – Executive Managing Director, Japan's Government Pension
 Investment Fund
 Meeting with staff and Jorg Kukies – State Secretary, German Ministry of Finance
 G20 Finance Ministers and Central Bank Governors meeting
 Meeting with staff and Axel Weber – Chairman, UBS
 International Monetary and Financial Committee (IMFC) opening session
 Conference call with Board Member
 IMF meeting
 IMF reception
 Meeting with Sir Jon Cunliffe – Deputy Governor, Bank of England

Saturday – April 13

IMF meeting
 IMF meeting
 Meeting with staff and Hiroshi Nakaso – Deputy Governor, Bank of Japan
 Meeting with staff and Ewald Nowotny – Governor, National Bank of Austria
 Meeting with Mark Carney – Governor, Bank of England
 Meeting with staff and Ahmed Alkholifey – Governor, Saudi Arabian Monetary Authority
 Meeting with staff and Sam Woods – CEO, U.K. Prudential Regulation Authority
 Trilateral Principal Level Exercise Meeting with FDIC, Bank of England, and ECB

Sunday – April 14

Meeting with Nouriel Roubini – Professor, New York University

Public discussion at George Mason University

Wednesday – April 10

Meeting with staff and Per Callesen – Governor, National Bank of Denmark
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Saturday – April 13

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 Meeting with staff and Sam Woods – CEO, U.K. Prudential Regulation Authority
 Trilateral Principal Level Exercise Meeting with FDIC, Bank of England, and ECB

Sunday – April 14

Meeting with Nouriel Roubini – Professor, New York University

Monday – April 15

Conference call with Hal Scott – Professor, Harvard Law School
 Meeting with staff and Eric Varvel – Managing Director, Credit Suisse
 Meeting with staff and Ken Bentsen – CEO, SIFMA; and Randall Guynn – Partner, Davis Polk & Wardwell
 Conference call with Rebecca Jurata – Special Assistant to the President

Tuesday – April 16

Meeting with Securities and Exchange Commission (SEC) Chairman Jay Clayton
 Conference call with FDIC Chairman McWilliams
 Meeting with staff and Donald Gibson – CEO, Green County Bancorp, Inc.
 Meeting with staff and Comptroller Otting; FDIC Chairman McWilliams; CFTC Chairman Giancarlo; and SEC Chairman Clayton.
 Conference call with Marianne Lake – CEO of Consumer Lending, JPMorgan Chase
 Meeting with students from University of Maryland

Wednesday – April 17

Meeting with staff and Thomas Leonardi – Vice Chair, AIG; David Long – CEO, Liberty Mutual
 Meeting with staff and Michael O’Grady – CEO, Northern Trust
 Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting

Thursday – April 18

Wharton School conference dinner

Friday – April 19

Wharton School conference
 Conference call with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Wednesday – April 24

Conference call with Lesetja Kganyago – Governor, South African Reserve Bank
 Conference call with Bill Demchak – CEO, PNC Bank
 Meeting with staff Paul Vershuer – Deputy Secretary, Treasury of Australia
 Conference call with Margaret Tayhar – Partner, Davis Polk & Wardwell
 Conference call with David Solomon – CEO, Goldman Sachs

Thursday – April 25

Meeting with staff and OCC Comptroller Otting; FDIC Chairman McWilliams; Financial Crimes Enforcement Network Director Kenneth Blanco; National Credit Union Administration Chairman J. Mark McWatters; and U.S. Treasury Under Secretary Sigal Mandelker.
 Conference call with FDIC Chairman McWilliams

Friday – April 26

Meeting with staff and Klaas Knot – President, De Nederlandsche Bank
 Meeting with staff and Jorg Kukies – State Secretary, German Ministry of Finance
 FSB meeting

Monday – April 29

Meeting with Representative Andy Barr (KY)
Meeting with Representative Jim Himes (CT)

Tuesday – April 30

Conference call with CFTC Chairman Giancarlo

Vice Chair for Supervision Randal K. Quarles
May 2019 Calendar

Wednesday – May 1

Meeting with Representative Denny Heck (WA)
Meeting with Representative Patrick McHenry (NC)
Meeting with Representative Bill Huizenga (MI)
Conference call with Brigitte Madrian – Dean, Marriott Business School, Brigham Young University
Conference call with Randall Guynn – Partner, Davis Polk & Wardwell

Thursday – May 2

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Meeting with Representative Sean Duffy (WI)
Meeting with Council of Economic Advisors and Board Members
President’s Working Group on Financial Market meeting

Friday – May 3

Conference call with David Solomon – CEO, Goldman Sachs
Conference call with Tim Ryan – Chairman, Santander
Conference call with Joe Seidel – Chief Operating Officer, SIFMA

Monday – May 6

Conference call with Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams and Comptroller of the Currency (OCC) Joseph Otting

Tuesday – May 7

Meeting with Andrew Metrick – Professor, Yale University
Meeting with staff and Yale University staff: Andrew Metrick – Professor; Gary Gorton – Professor; William English – Professor; and Sigridur Benediktsdottir – Professor.
Public speech at Yale University
Meeting with staff and James Gorman – CEO, Morgan Stanley; Michael Corbat – CEO, Citigroup; Brian Moynihan – CEO, Bank of America.
Meeting with James Gorman – CEO, Morgan Stanley

Wednesday – May 8

Meeting with Treasury Borrowing Advisory Council
Conference call with Rob Nichols – CEO, American Bankers Association
Tour and meeting with Congressional staffers

Thursday – May 9

Meeting with Federal Reserve Bank of Cleveland Board
Meeting with Reserve Bank staff

Friday – May 10

Meeting with Federal Advisory Council

Monday – May 13

Meeting with FDIC Board Member Martin Gruenberg

Conference call with Senator Sherrod Brown (OH)
 Meeting with staff and FDIC Chairman McWilliams; Comptroller Otting; and National Credit Union Administration Chairman Rodney Hood.
 Meeting with FDIC Chairman McWilliams and Comptroller Otting
 Meeting with Senator Tina Smith (MN)
 Meeting with Michael Paese – Managing Director, Goldman Sachs

Tuesday – May 14

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
 Conference of Chairs reception followed by dinner

Wednesday – May 15

Testimony to Senate Banking Committee
 Conference call with Sir Jon Cunliffe – Deputy Governor, Bank of England
 Meeting with National Association of Home Builders with Board Members
 Meeting with Jamie Dimon – CEO, JPMorgan Chase

Thursday – May 16

Conference call with Kimihiro Etoh – Executive Director, Bank of Japan
 Testimony to House Financial Services Committee

Friday – May 17

Financial Stability Board (FSB) meeting

Monday – May 20

Conference call with Ignazio Visco – Governor, Bank of Italy
 Meeting with staff and foreign banks: Richard Haworth – CEO, Barclays; Richard Ferguson – Chief Risk Officer, BNP Paribas; Stephen Lobo – Treasurer, Bank of Montreal; Eric Varvel – Managing Director, Credit Suisse; Johannes Worsøe – Chief Financial Officer, MUFG; and Mark Chauvin – Chief Risk Officer, TD Bank.
 Meeting with Keith Noreika – Partner, Simpson, Thacher & Bartlett

Tuesday – May 21

FSB conference call
 Meeting with Representative Ben McAdams (UT)
 Meeting with Douglas Elliott – Partner, Oliver Wyman

Wednesday – May 22

Conference call with reporter
 Meeting with staff and Wim Mijs – CEO, European Banking Federation
 Meeting with reporter
 Meeting with reporter
 Meeting with staff and Michael Bopp – Partner, Gibson Dunn

Thursday – May 23

Attend Conference of State Bank Supervisors conference

Conference call with staff, Board Member, and Reserve Bank President

Friday – May 24

Community Advisory Council meeting

Tuesday – May 28

Meeting with Federal Housing Finance Director Mark Calabria

Conference call with FDIC Chairman McWilliams and OCC Comptroller Otting

Meeting with staff and Eric Varvel – Managing Director, Credit Suisse

Conference call with Norman Chan – Chief Executive, Hong Kong Monetary Authority

Wednesday – May 29

Conference call with staff and Andrew Bailey – Chief Executive, U.K. Financial Conduct Authority; and
FSB conference call

Meeting with staff and Christian Sewing – CEO, Deutsche Bank

Conference call with Brian Moynihan – CEO, Bank of America

Meeting with staff and Greg Baer – CEO, Bank Policy Institute

Thursday – May 30

Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury

Meeting with staff and Rodgin Cohen – Partner, Sullivan & Cromwell

Meeting with staff and Richard Apostolik – CEO, Global Association of Risk Professionals

Speech at Federal Reserve Board research conference

Meeting with reporter

Financial Stability Oversight Committee meeting

President's Working Group on Financial Market meeting

Friday – May 31

Conference call with Tom Wipf – Vice Chairman, Morgan Stanley

Conference call with Marianne Lake – CEO of Consumer Lending, JPMorgan Chase

Vice Chair for Supervision Randal K. Quarles
June 2019 Calendar

Tuesday – June 4

Attend Federal Reserve Conference on Monetary Policy Strategy, Tools, and Communication Practices
Conference dinner reception

Wednesday – June 5

Attend Federal Reserve Conference on Monetary Policy Strategy, Tools, and Communication Practices

Thursday – June 6

Conference call with Paul Atkins – Chief Executive, Patomak Global Partners

Saturday – June 8

Financial Stability Board (FSB) meeting
G20 Finance Ministers and Central Bank Governors meeting
G20 dinner

Sunday – June 9

Meeting with staff and Ryozi Himino – Vice Minister, Japanese Financial Services Agency
Meeting with staff and Alessandro Rivera – Director General, Italy Ministry of Economy and Finance
Meeting with Francois Villeroy de Galhau – Governor, Banque de France
G20 Finance Ministers and Central Bank Governors meeting

Monday – June 10

Meeting with reporters

Tuesday – June 11

Meeting with Senator Mitt Romney (UT)
Meeting with Senator Mike Lee (UT)

Wednesday – June 12

Conference call with Wilson Ervin – Vice Chairman, Credit Suisse
Conference call with Senator Mike Crapo (ID)
Conference call with Federal Deposit Insurance Corporation (FDIC) Chairman Jelena McWilliams and Comptroller of the Currency Otting
Conference call with Commodity Futures Trading Commission (CFTC) J. Chris Chairman Giancarlo
Conference call with Keith Noreika – Partner, Simpson Thacher & Bartlett

Thursday – June 13

Meeting with Heather Gerken – Dean, Yale Law School
Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury
Meeting with staff and Meeting with Craig Phillips – Counselor to the Secretary, U.S. Treasury; Brian Moynihan – CEO, Bank of America; Jamie Dimon – CEO, JPMorgan Chase

Monday – June 17

Meeting with staff and FDIC Chairman McWilliams; Comptroller Otting; National Credit Union Administration Chairman Rodney Hood; Financial Crimes Enforcement Network Director Kenneth

Blanco; and Under Secretary of the U.S. Treasury Sigal Mandelker.

Tuesday – June 18

Conference call with Comptroller Otting

Thursday – June 20

Conference Call with reporter

Meeting with Brent McKintosh – General Counsel, U.S. Treasury

Meeting with staff and Joe Martinetto – CEO, Charles Schwab

Friday – June 21

Conference call with Christian Sewing – CEO, Deutsche Bank

Conference call with staff and Andrew Bailey – Chief Executive, U.K. Financial Conduct Authority; and

CFTC J. Chris Giancarlo

Conference call with reporters

Conference call with staff and Mike Considine – CEO, Mike Considine

Tuesday – June 25

FSB call with reporters

Friday – June 28

Conference call with reporters

Meeting with staff and Ryozo Himino – Vice Minister, Japanese Financial Services Agency

G20 meeting

G20 meeting

Saturday – June 29

G20 meeting

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR
MENENDEZ FROM RANDAL K. QUARLES**

Q.1.a. The Federal Reserve's latest financial stability report highlights a number of increased risks to the financial system.[1] But in March, the Federal Reserve Board voted four-to-one against raising the countercyclical buffer,[2] which requires large banks to hold more capital when elevated risks start to appear.

These are fantastic times for financial institutions, but we may be on the precipice of a downturn. Several observers believe that we are near the end of the business cycle. This is exactly when countercyclical measures should be taken and when capital requirements should be increased.

If countercyclical measures aren't appropriate now, when would they ever be?

[1] <https://www.federalreserve.gov/publications/2019-may-financial-stability-report-purpose.htm>.

[2] <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190306c.htm>.

A.1.a. The Federal Reserve Board's (Board) framework for setting the countercyclical capital buffer (CCyB) indicates that the CCyB would move above zero when we judge that vulnerabilities in the financial system have become meaningfully above normal, and that we would progressively raise the CCyB level as vulnerabilities become more severe.¹

As I have stated and as described in our latest Financial Stability Report,² we assess four major types of financial vulnerabilities: asset valuations and risk appetite, household and business debt, leverage of financial institutions, and funding risk. As you correctly point out, our May report highlighted that we are closely monitoring vulnerabilities related to the high level of business leverage as well as significant valuation pressures in some asset markets. Those concerns are balanced by the relatively modest growth of household debt in recent years, and its concentration in households with strong credit histories. Moreover, our financial institutions are much better capitalized than they were a decade ago, and other post-crisis reforms have decreased the probability of destabilizing runs in short-term funding markets. In particular, the largest banks that are subject to the CCyB have high levels of capital and high-quality liquid assets relative to their historical values, while simultaneously strengthening the resiliency of their other funding sources.

Taking all of that into account, it remains my judgment that the level of system-wide vulnerabilities is within what can be considered a normal range. It is important to keep in mind that this is a financial stability assessment, not an assessment of the business cycle or of macroeconomic risks. Given the issues we are watching, it is certainly possible that developments in one or more areas could exacerbate any future business downturn even if they do not threaten financial stability. The threshold assessment of the type of risks that may be emerging is important, however, in deter-

¹See <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20160908b.htm>.

²See <https://www.federalreserve.gov/publications/financial-stability-report.htm>.

mining the most effective response. If we thought risks to financial stability were elevated, turning on the CCyB would be an appropriate tool. If, instead, we see risks to the macroeconomic outlook, a different set of responses could be appropriate. For example, in the most recent Shared National Credit Examinations, our supervisors, together with those of the other Federal banking agencies, paid specific attention to underwriting practices for leveraged loans and have notified banks to improve those practices where needed to support stronger credit quality. Nonetheless, we are vigilant and will continue to monitor potential vulnerabilities to financial stability.

Q.1.b. Why did the board fail to find consensus on this issue when it admits in its report that increased risks may be on the horizon?

A.1.b. The Board engages in a comprehensive assessment of all available information in determining the appropriate level of the CCyB. My colleagues and I will, at times, reach different conclusions about the level of vulnerabilities or the potential interactions between existing vulnerabilities and the broader economy, while adhering to the same general framework. Overall, I think our content CCyB framework is serving us well. That said, it is useful to have debate and research on a wide range of ideas so we can advance our understanding of how best to achieve our goals.

Q.2. My home State of New Jersey is moving toward legalization of recreational marijuana, and I have concerns that these new businesses as well as the existing medical marijuana businesses in the State will continue to find themselves shut out of the banking system. And when these businesses are forced to operate exclusively in cash, they create serious public safety risks in our communities.

Comptroller Otting and Chair Powell have previously expressed support for legislative clarity on the marijuana banking issue, and I would like to understand Chair McWilliams, Vice Chair Quarles, and Chair Hood's position as well.

Do you agree that financial institutions need legislative clarity on this issue?

A.2. Yes. Only Congress can provide financial institutions with statutory clarity on the conflict between Federal and some States' laws on the legal status of marijuana and whether banks can serve marijuana businesses that are legal under State law.

Q.3. I am also concerned that legal marijuana businesses will continue to find themselves unable to access insurance products, a necessity for those looking to secure financing.

Would it be helpful for Congress to consider the role of insurance companies as States move toward legalization?

A.3. Consideration of the role insurance companies play with regard to marijuana businesses would be at the discretion of Congress. Federal Reserve staff will track any new developments in this area.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR ROUNDS
FROM RANDAL K. QUARLES**

Q.1. In my State of South Dakota, farmers, ranchers, energy producers, and others use derivatives to manage risks and fluctuating commodity prices. It is critical for these producers to have access to markets and products that are as competitive and cost-effective as possible. Not only does this benefit agriculture and energy producers, it also benefits American consumers across the country who depend on stable prices as they go about their daily lives.

Recently, the CFTC Commissioners submitted the attached joint comment letter in response to the SA-CCR proposed rulemaking, and I share in the concerns raised by these regulators who noted that, in its current form, the supplementary leverage ratios (SLR) “is working counterproductively, limiting access to derivatives risk management strategies and discouraging the central clearing of standardized swap products.”

The current SLR calculation fails to acknowledge the risk-reducing impact of client initial margin in its calculation, resulting in an inflated measure of the clearing member’s exposure for a cleared trade.

The SA-CCR rulemaking provides an important opportunity to address these concerns, and to work with your fellow regulators who directly monitor and regulate the derivatives markets.

- Have you reviewed the attached joint comment letter from the CFTC Commissioners?
- Have you had any direct conversations with the CFTC Commissioners about this matter and the concerns they raised?
- Will you commit to continuing to work with your fellow regulators to address the concerns they have raised about the SLR moving forward?

I strongly support the efforts of the CFTC Commissioners, who are in agreement that the SLR must acknowledge the risk-reducing impact of client initial margin in its calculation, and I urge you to continue working with your fellow regulators on this critical issue.

A.1. The public comment process often provides valuable information about proposed rulemakings. The comment period for the proposal to implement the standardized approach for calculating the exposure amount of derivative contracts closed on March 18, 2019, and the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the agencies) are considering the letter from the Commodity Futures Trading Commission along with other public comments received on the proposal in the course of developing any final rule.

Q.2.a. Under the recent foreign bank tailoring proposal, the Federal Reserve Board would apply liquidity requirements to an intermediate holding company (IHC) based on the risk profile of a foreign banking organization’s combined U.S. operations. The Board estimates these proposed changes would represent, in the aggregate, an increase of up to 4 percent in total liquidity requirements for IHCs.

Given that the IHC is a distinct legal entity from the U.S. branch and funding between the entities is not fungible, wouldn't it be more efficient to tailor liquidity requirements on the IHC based on the IHC risk profile and separately on the branch based on the branch risk profile?

A.2.a. The proposal would determine the applicability and stringency of certain requirements—including the liquidity coverage ratio, proposed net stable funding ratio, and single-counterparty credit limits—to a U.S. intermediate holding company of a foreign bank based on the risk profile of the foreign bank's combined U.S. operations. As stated in the proposal, this approach provides a way to address the potential for liquidity risks to spread across all segments of a banking organization and the risks posed by foreign banks with significant U.S. operations to financial stability. As you note, an alternative approach could determine the applicability of IHC-level requirements based on the risk-based indicators of the IHC, and there is much to commend this approach as well.

This proposal was issued for public comment, and the Board is carefully reviewing and considering all comments received. We will make a determination of which approach to follow based upon this comprehensive review.

Q.2.b. Why are existing restrictions on funding transfers between the IHC and branch (such as Section 23A of the Federal Reserve Act, Regulation W, asset and liquidity maintenance requirements, and Regulation YY) insufficient?

A.2.b. The proposals would determine liquidity coverage ratio (LCR) and the proposed net stable funding ratio (NSFR) requirements for a foreign bank's U.S. intermediate holding company based on the risk profile of the foreign bank's combined U.S. operations, which includes its U.S. intermediate holding company, if any, and its U.S. branches and agencies. This approach would not require a U.S. intermediate holding company of a foreign bank to hold liquid assets based on projected outflows at U.S. branches of the foreign bank, or to maintain stable funding at the U.S. intermediate holding company to supply assets outside of the U.S. intermediate holding company.

Accordingly, while restrictions on transfers of assets between a U.S. intermediate holding company or an insured depository institution of a foreign bank and its U.S. branches, such as the limits under section 23A of the Federal Reserve Act, are important, they do not necessarily address the same risks that are the focus of the proposals.

Q.3. How does the Board know if it is calibrating the application of the proposed Net Stable Funding Ratio (NSFR) rule appropriately before it has finalized the requirement and analyzed the full impact of the requirement on foreign banking organizations, given that this was absent in the proposal and the NSFR was not intended for a subsidiary of a consolidated organization?

A.3. The foreign bank tailoring proposals would amend the scope of application of the Federal banking agencies' LCR and proposed NSFR rule. Under the NSFR proposed rule issued in 2016, an NSFR requirement or a modified NSFR requirement would apply to U.S. intermediate holding companies of foreign banking organi-

zations that are depository institution holding companies with total assets of \$50 billion or more. The foreign bank tailoring proposals would modify the proposed NSFR rule's scope of application to include other U.S. intermediate holding companies and change the NSFR rule's applicability thresholds based on the size and risk profile of a foreign bank's combined U.S. operations. The foreign bank tailoring proposals generally seek to apply a consistent framework to foreign banking organizations as would apply to domestic firms, in order to provide consistent treatment of risks across firms and a level playing field.

The agencies proposed the NSFR rule in 2016 and received a number of comments on the overall requirement, as well as on specific aspects of the rule. The Board has been working with the other Federal banking agencies to consider those comments and will consider all comments on the foreign bank tailoring proposals as the agencies work to develop a final rule.

Q.4. The Board has proposed the same risk-based indicators to tailor requirements on foreign banks as the Board proposed for domestic banks. Since foreign banks' structures are different (*i.e.*, they are subsidiaries of a global parent and not a top-tier institution), why has the Board chosen not to exclude certain intercompany transactions that pose a low run risk, including transactions with non-U.S. affiliates, from the risk-categorization metrics?

A.4. The proposals would apply a consistent framework across U.S. and foreign banking organizations in order to promote a level playing field and consistent treatment of risks across firms. In some cases, the proposals would include adjustments to the risk-based indicators used to determine a firm's prudential standards based on the structure of foreign banks' operations in the United States, including with respect to intercompany transactions. For example, the proposed cross-jurisdictional indicator would exclude intercompany liabilities and certain collateralized intercompany claims. The proposals also request comment on whether to exclude additional intercompany claims from this indicator.

For the weighted short-term wholesale funding indicator, the proposals would not exclude exposures between the U.S. operations of a foreign bank and non-U.S. affiliates, because reliance on short-term wholesale funding from affiliates can contribute to a firm's funding vulnerability in times of stress.

The Board has received a number of comments on the proposed indicators, and we are in the process of considering them now.

Q.5.a. Supervising large, globally active banking organizations—such as those covered by the Federal Reserve's Large Institution Supervision Coordinating Committee (LISCC)—are among your agency's most important responsibilities. While supervision traditionally relates to areas such as lending, credit risk, and capital and liquidity risk, many of the operational risks that larger banks manage are in areas unrelated to traditional banking services and functions.

I am concerned that as these areas become a larger potential source of risk, supervisory teams may not have the technical expertise to properly oversee these complex financial institutions. With-

out proper supervision, the end result for the United States and the world economy could be disastrous.

Do you agree that it is critical that supervisory staff have the requisite technical expertise to understand and review the cyber and technology risks of large financial institutions?

A.5.a. I agree that examiners should have the requisite experience and technical expertise to provide the necessary supervisory oversight of large financial institutions. The Board has augmented its IT examination staff with cybersecurity risk specialists who perform cyber-focused exams at large financial institutions. The cybersecurity risk specialists are experienced subject matter experts and assess cybersecurity and operations risk management programs, IT operations, and management information systems to ensure they are operating in a safe and sound manner. We will continue to give focused attention to this in the evolution of our hiring practices for supervisory personnel.

Q.5.b. How do you make certain that your field supervisory teams possess the requisite amount of technical experience in areas like cybersecurity and technology to oversee banks in the LISSC portfolio?

A.5.b. The Federal Reserve System has an established framework to direct the recruitment, hiring, and assignment of cybersecurity risk specialist examiners. The Federal Reserve also has established minimum education and experience requirements for prospective cyber examiners focused on technology related post-secondary education, familiarity using industry-standard risk frameworks, prior regulatory experience, and industry certifications in information security. The Board, in conjunction with the Federal Reserve Banks, conducts training for cyber examiners based on the latest known threats to the financial services sector. For example, the Federal Reserve has held training sessions on operational resilience, which combines cybersecurity, business continuity, and IT operational controls. The Federal Reserve also maintains an IT and information security learning platform available to all supervisory staff in the Federal Reserve System. In addition, IT and cyber examiners regularly participate in the Federal Financial Institutions Examination Council annual IT Conference.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TILLIS FROM RANDAL K. QUARLES

Q.1. Your agencies regulatory approach to inter-affiliate margin transactions is an outlier. The margin requirements have the effect of locking up capital that could otherwise be used for economic growth and they discourage centralized risk management practices among firms. In addition, the current approach results in the movement of collateral out of the U.S. insured depository institutions. These are all suboptimal policy outcomes. Regulatory authorities in the European Union, Japan, and most other G20 jurisdictions each currently provide such an exemption for these transactions. You have indicated you are aware of the issue but, to date, I've seen no official action from your agencies to fix the problem.

The recognition for the need for an exemption began under regulators nominated by President Obama. In 2013, CFTC Chairman Gary Gensler provided an exemption for central clearing and trade execution. In 2015, CFTC Chairman Tim Massad provided an exemption, determining that initial margin was not warranted and it was a “very costly and not very effective way” to enhance risk management. Yet, your agencies did not provide an exemption from initial margin in the 2016 margin rules, and as a result, as of the end of last year, U.S. banking entities collected nearly \$50 billion in initial margin from their own affiliates. In 2017, the Treasury Department noted that this rule puts U.S. firms at a disadvantage both domestically and internationally, recommending that your agencies provide an exemption consistent with the margin requirements of the CFTC.

Q.1.a. Do you agree that an exemption from initial margin is appropriate for inter-affiliate transactions?

A.1.a. The Federal Reserve Board (Board) is actively discussing this aspect of the rule with the other prudential regulators to assess what, if any, changes can be made consistent with the statutory directive that margin requirements help to ensure the safety and soundness of covered swap entities and are appropriate for the risk associated with noncleared swaps.

Q.1.b. Will you prioritize a rule to provide an exemption for inter-affiliate transactions, separate from any broader regulatory effort such as a Regulation W rewrite?

A.1.b. The current discussions with the other prudential regulators are separate and apart from any broader regulatory efforts.

Q.1.c. Please provide an explicit timeline for when your agencies will take action.

A.1.c. The Board is working to address this issue as soon as possible.

Q.2. The reason a “Reg W” rewrite is suboptimal is that it will be counterproductive and slow. This capital needs to be released soon because we have geopolitical risk emerging over the world that could destabilize markets. If we have a Brexit, the number of entities will double and more capital will be unfairly sequestered. With potential trade volatility, Middle East uncertainty, and other risks, our banks need to be able to use capital for risk management, not have it trapped for no reason.

The Current Expected Credit Loss (CECL) accounting standard poses significant compliance and operational challenges for banks.

Q.2.a. Roughly how many of institutions that your agency supervises will be subject to the new CECL accounting standard?

A.2.a. The Board is responsible for the supervision and regulation of bank holding companies, savings and loan holding companies (SLHCs), State-chartered banks that are members of the Federal Reserve System, and U.S. operations of foreign banking organizations. As of December 2018, there were approximately 5,200 organizations supervised by the Board.

Institutions subject to Board supervision fulfill regulatory reporting requirements using financial statements and information prepared in accordance with U.S. generally accepted accounting prin-

ciples (GAAP) (with limited exceptions for SLHCs that exclusively use statutory accounting principles for insurance activities). Accordingly, nearly all supervised institutions that file financial statements with the Federal Reserve System will be subject to the Current Expected Credit Losses (CECL) accounting standard.

Q.2.b. What is the overall impact considering their nonbank and nonfinancial clients are also subject to the rule—considering the indirect impacts such as impairment of trade receivables pledged as loan collateral for a medium-sized business?

A.2.b. CECL applies to all financial assets subject to credit losses that are measured at amortized costs and certain off-balance sheet credit exposures, including loans held-for-investment, securities held-to-maturity, and trade and lease receivables. CECL applies to all entities that follow U.S. GAAP reporting.

Various economists, institutions, and independent organizations have produced impact analyses concerning CECL, with varying conclusions. We have reviewed these analyses and also performed internal analyses. Our internal analyses show that CECL is modestly counter-cyclical relative to the incurred loss standard.

Q.2.c. There are many analyses publicly available related to the FASB's CECL proposal, but none have an approximation for the number of U.S. GAAP filers who will be affected and the overall macro impact—does your agency know the covered universe?

A.2.c. As indicated above, CECL applies to all entities that follow U.S. GAAP reporting. This includes all banks, savings associations, credit unions, and financial institution holding companies, regardless of size, that file regulatory reports for which the reporting requirements conform to U.S. GAAP. We expect CECL to affect substantially all Board-supervised institutions (approximately 5,200 institutions) that fulfill regulatory reporting requirements using financial statements and information prepared in accordance with U.S. GAAP.

Q.2.d. Are you confident that the banks you supervise are ready to implement CECL smoothly, given the balance sheet and operational costs involved?

A.2.d. The effective date applicable to an institution depends on the institution's characteristics. The new accounting standard currently provides three different effective dates. U.S. Securities and Exchange Commission (SEC) filers must implement CECL by 2020, and non-SEC filers must implement it in 2021 or 2022. On July 17, 2019, the FASB voted to issue a proposal for 30-day public comment that would reduce the number of effective dates for CECL to two. Under this proposal, SEC filers that are not smaller reporting companies would implement CECL by 2020 and all other entities would adopt it by 2023.

We believe that CECL needs to be viewed as scalable to an institution's size and complexity and that banking organizations (including community banks) can implement CECL without the use of costly or complex modeling techniques.

We recognize that the implementation of CECL continues to be an area of concern for community banks. We are focused on the burden on community banks and are committed to ensuring that

the implementation of CECL is operational for community banks and that our supervisory expectations are appropriate given the size and complexity of such firms.

Q.2.e. Other than allowing the banks to integrate CECL reserves into regulatory capital over 3 years, are your agencies doing anything to assess the impact of CECL on the availability of financing?

A.2.e. We are committed to closely monitoring implementation and studying the effect of CECL on the banking system—including on the availability of financing—to determine if future changes to the regulatory framework are appropriate.

Q.2.f. Would you agree that a FASB accounting change should not result in either an increase or decrease in the loss absorbency a bank holds against any given loan?

A.2.f. We do believe that the current loss-absorbing capacity of the industry is appropriate. To address concerns about the CECL accounting standard's potential initial impact on regulatory capital at supervised institutions, the Board approved a final rule in December 2018, which provides institutions the option to phase in any day-one regulatory capital effects of CECL over a 3-year period. The transition period will allow us to monitor the impact of the standard before the full initial effect on regulatory capital is required to be recognized. If we do see the outsize initial effects on reserve levels that some have modeled, we have the regulatory tools we need to mitigate those effects. The phase-in period will give us time to deploy those tools, if needed.

Q.3. Thank you for your response last week to my questions from October and November regarding the margin eligibility of certain over-the-counter (OTC) securities. The response to my question was very brief, since three paragraphs in the response were dedicated to a background and history of the issue rather than what the Federal Reserve (Fed) might do to address the issue. I have several follow-up questions to help me better understand what the Fed is planning to do since doing nothing would be damaging to our capital markets and economy.

Your response states, “Any expansion of the types of securities that are margin eligible would require careful consideration by the Fed of the benefits of such an approach weighed against potential increased burden on banks and other lenders.” I disagree with this statement. Holders of marginable securities can borrow against them, which increases the utility of owning those securities, improves market quality and increases the value for investors. This can have a direct impact on small company capital formation, which is something Members of the Senate Banking Committee have been looking to improve.

Q.3.a. Is the Fed also examining how the lack of updating the margin list affects the issuers and investors?

Q.3.b. What is the timing for when the Fed will complete its review and make a decision on changes to margin eligibility for OTC securities? We cannot have an unending review with no action taken. If the Fed is not willing to take any action, I will look at transferring this authority to the SEC, which may be where this authority belongs.

A.3.a.-b. You raise a number of important considerations, and we are currently reviewing policies related to margin eligibility of certain over-the-counter securities. I appreciate your concerns about the timing of this work, and I assure you we are diligently working on this issue.

Q.4. Your May 8th response indicates that Fed staff has been monitoring OTC market developments since the publication of the OTC margin list ceased. It is my understanding that OTC platforms have been tiered in a way to clearly distinguish between companies, including a tier that requires the companies to meet high financial standards, follow best practice corporate governance, be current in their disclosures, and are not penny stocks, shell companies or in bankruptcy.

What efforts have Fed staff taken to review these and other market developments since NASDAQ became an exchange in 2006?

A.4. Please see response to question 3.

Q.5. I think you would agree an appropriately tailored regulatory framework is important to maintain safety and soundness in our banking system, and promote economic growth. The Trump administration also has recognized these principles in Treasury's policy reports and Executive Order 13772. In 2017, Congress passed an important overhaul of our tax system and provided important tax relief for Americans across the country. One provision, the Base Erosion and Anti-Abuse Tax, or BEAT, has the ability to damage many foreign banking organizations with significant presence and commitment in the United States if the BEAT rules are not implemented correctly.

Q.5.a. Would you agree that bank regulatory policy and tax policy should be aligned to the greatest extent possible and avoid working counter to each other?

A.5.a. It is desirable for tax and regulatory policy to not work counter to each other, but inevitably there will be instances when they are not altogether aligned because the objectives of these policies are different. Regulatory policy is aimed at ensuring the safety and soundness of financial institutions, as well as the stability of the financial system. Tax policy, on the other hand, is aimed at raising revenue in an equitable and fair manner. These goals are not inherently in conflict, but at times, tax policy may have a consequence that has the potential to thwart the intent of regulatory policy and vice versa.

Q.5.b. If so, can you describe how the Fed engaging with Treasury to educate them on bank regulatory policy and structure as they are implementing the BEAT rules?

A.5.b. The Federal Reserve works closely with the U.S. Treasury Department on areas of mutual interest. A key part of the dialogue is education of the other party on the goals of policy decisions and discussion of possible unintended consequences.

Q.6. I am concerned about the risk sensitivity of some of the indicators that the Fed uses in its tailoring proposals. In particular, the arbitrary and crude threshold for nonbank assets is a metric that does not even reflect actual risk and that seems biased against business models focused on capital market activities even though

many broker-dealers hold assets (Treasuries, agency securities) that are more liquid and high-quality than many bank assets (construction loans, subprime consumer loans). The Fed has stated that it considers nonbank activities indicative of risks like liquidity, interconnectedness, and complexity. However, the Fed has provided no empirical evidence to support this proposition. Moreover, the proposals deploy other indicators that actually address the particular risks that the Fed cites (weighted short-term wholesale funding for liquidity risk). Based on this strong evidence, I hope the Fed considers eliminating this flawed, short sighted, and dangerous indicator.

If not eliminated, shouldn't the nonbank assets indicator at least be adjusted (by risk weighting these assets or excluding high quality liquid assets from the calculation) so that firms aren't disincentivized from holding Treasuries and other high quality liquid assets?

A.6. In general, the tailoring proposals aim to strike a balance between simplicity and risk-sensitivity in the selection of risk-based indicators, using indicators that reflect risks to the safety and soundness of a firm and to U.S. financial stability. To promote transparency and predictability, as well as to reduce compliance costs, the proposals would use indicators that are already captured in the Board's regulatory framework and that are publicly reported by firms.

The Board has received a number of comments on the proposed indicators, including the proposed nonbank assets indicator, and we are carefully considering them as we work to develop a final rule.

Q.7. Under the recent foreign bank tailoring proposal, the Fed would apply liquidity and SCCL requirements to an IHC based on the assets and activities of its combined U.S. operations. And while the Fed requires FBOs with significant U.S. operations to move their U.S. subsidiaries under a single IHC, branches of foreign banks are separate foreign legal entities and cannot be held under the IHC. Furthermore, due to regulations such as Regulation W, funding between the U.S. branch of an FBO and its IHC are not fungible.

Q.7.a. What is the rationale for determining regulation at the IHC inclusive of its parent's branch activities?

Q.7.b. Would it not be more efficient to tailor these regulations to the IHC based on IHC risk profile alone, and to separately tailor requirements to the branch?

A.7.a.-b. The proposal would determine the applicability and stringency of certain requirements—including the liquidity coverage ratio, proposed net stable funding ratio, and single-counterparty credit limits—to a U.S. intermediate holding company of a foreign bank based on the risk profile of the foreign bank's combined U.S. operations. As stated in the proposal, this approach provides a way to address the potential for liquidity risks to spread across all segments of a banking organization and the risks posed by foreign banks with significant U.S. operations to financial stability. As you note, an alternative approach could determine the applicability of Intermediate Holding Company (IHC) level requirements based on

the risk-based indicators of the IHC, which has a different set of advantages and disadvantages.

This proposal was issued for public comment, and the Board is carefully reviewing and considering all comments received.

Q.8. I have concerns with the Fed entering the market for faster payments as a direct competitor of the private sector. My understanding is that the Fed seeks to justify this potential action in part on a perceived need for “resiliency.” The notion that having two systems would provide resiliency necessarily assumes that every bank in the country (or at least an overwhelming majority of them) would have to connect to two systems: the private sector system and the yet-to-be-built Government-run system, which would create enormous inefficiencies and impose needless costs on the American taxpayer and the private sector.

Q.8.a. Have you done any cost-benefit analysis, particularly in light of the other faster payment options currently in the market that already serve as near substitutes, like payments over the card networks, same-day ACH, PayPal, Venmo, Zelle, Fedwire Funds Service itself, to determine whether or not this proposal makes any sense?

A.8.a. The Board announced on August 5, 2019, that the Reserve Banks will develop a new real-time payment and settlement service, called the FedNowSM Service, to support faster payments in the United States. The Board’s evaluation of Reserve Bank service proposals, such as the FedNowSM Service, is subject to the requirements of the Federal Reserve Act, the Monetary Control Act, and longstanding Federal Reserve policies and processes. The Board’s policy for evaluating new services was carefully tailored to consider factors that are most relevant in assessing the costs and benefits of the service. Specifically, the Board assesses whether the Federal Reserve will achieve full cost recovery over the long run, whether the service will yield a clear public benefit, and whether the service is one that other providers alone cannot be expected to provide with reasonable effectiveness, scope, and equity. In addition, the Board performs a competitive impact analysis when considering an operational or legal change to a Reserve Bank service or price that would have a direct and material adverse effect on the ability of others to compete with the Reserve Banks. The Board’s analysis on these matters, including associated costs and benefits, is described in greater detail in Part One of the Board’s Federal Register Notice announcing the decision.² Although my fellow Governors concluded that the development of the FedNowSM Service is appropriate at this time, I did not see a strong justification for the Federal Reserve to move into this area and crowd out innovation when viable private-sector alternatives are available. As a result, I voted against this action.

Q.8.b. Doesn’t the Fed already regulate and supervise the private sector real-time payments operator, which we understand has an impressive track record for resiliency, operating with multiple data centers, redundant systems, *etc.*? Are you contending that your reg-

²See <https://www.federalregister.gov/documents/2019/08/09/2019-17027/federal-reserve-actions-to-support-interbank-settlement-of-faster-payments>.

ulatory and supervisory powers over the private sector operator are deficient in terms of your supervising the private sector's plans to ensure resiliency?

A.8.b. One of the factors that has complicated the Board's consideration of the real-time payments issue is that—unlike many central banks around the world—the Board does not have plenary regulatory or supervisory authority over the U.S. payment system. Rather, the Board has limited authority to influence private-sector payment systems in specific circumstances. The Bank Service Company Act (BSCA) grants the Board (and the other Federal banking agencies) the authority to regulate and examine third-party service providers, but only for the performance of certain covered services and only when services are performed for depository institutions under the agency's supervision. The BSCA, however, does not grant enforcement authority to the Board or other Federal banking agencies over third-party service providers.

Q.8.c. In light of the recent Fedwire Funds outage, which we understand came at a critical part of the day when private sector settlement relies on Fedwire, should the Fed's resiliency focus perhaps be on the Fedwire Funds system, which has vital systemic importance, rather than committing time and resources to standing up new infrastructure that may or may not provide resiliency?

A.8.c. Maintaining and enhancing the resilience of the Fedwire Funds Service is, and will continue to be, an area of focus for the Board. The Board, through its oversight of the Reserve Banks, holds the Fedwire Funds Service to high standards, which include robust operational resilience expectations.

The Fedwire Funds Service has historically provided a high level of operational reliability. Having addressed the outage's immediate cause, efforts are underway to identify, understand, and respond to the outage's root causes so that the same high levels of operational reliability will continue in the future.

That being said, as indicated in my response to question 8.a., I did not support the Board's decision regarding the FedNowSM Service. We would be better served by focusing our resources on enhancing the resiliency of the current Fedwire Funds Service.

Q.9. According to a GAO report (May 2019) entitled "Bank Supervision: Regulators Improved Supervision of Management Activities but Additional Steps Needed," "corporate governance" was the largest of 26 categories of MRAs issued by the Fed between 2012—2016, constituting approximately 19 percent of all MRAs. This was by far the largest category in terms of MRAs issued by the Fed. Similarly, internal reports from the U.S. Federal bank regulators for 2016 through 2017 showed that corporate governance issues were among the most common categories for issued supervisory concerns.

Q.9.a. In the interest of greater transparency and accountability in the supervisory process, including, with respect to how the agencies use guidance and employ their significant discretion in the examination process, please describe, on an anonymous basis, some examples of these MRAs, and the grounds on which such MRAs were determined to be warranted (*e.g.*, what laws, regulations and/or

guidance were implicated and the risks posed by the corporate governance practice at issue).

A.9.a. Good corporate governance is vital to firms' safety and soundness and encompasses a wide-range of issues, such as risk management, internal controls, internal audit, effective management oversight, and compliance with laws, including the Bank Secrecy Act/Anti-money Laundering (BSA/AML). The Board believes that it is important for firms to address corporate governance issues because they can involve violations, or potential violations, of a statute or regulation and often be precursors to more serious issues that can adversely affect firms' financial conditions and safety and soundness. While the Board and the Federal Financial Institutions Examination Council (FFIEC) have issued guidance to regulated firms on a variety of corporate governance topics, this guidance does not form the basis for Matters Requiring Attention (MRA) or Matters Requiring Immediate Attention (MRIAs).

Below are examples of some recent MRAs that are among the subset referenced by the Government Accountability Office report:

- Directing a firm to address identified issues in its liquidity risk management processes as defined under 12 CFR 252.34(f)(2) (ii), because it could not demonstrate an ability to manage its liquidity positions satisfactorily, which could lead to acute problems in the firm's financial condition and impair its safety and soundness.
- Directing a firm to address noncompliance with certain risk management and risk committee requirements, including having a risk management expert serve on its risk committee, as required under 12 CFR 252.33.
- Directing a firm to strengthen and maintain a satisfactory and sustainable system of internal controls and procedures to ensure compliance with certain BSA/AML laws and regulations, as required under 31 CFR 1010.311, 1010.312, and 1010.314.
- Directing a firm to address deficiencies in its information security program, as those deficiencies present an increased risk of cyber attack, data breaches, compromise of customer information, damage to internal systems, and potentially the firm's overall safety and soundness.

Q.9.b. Please describe whether the Interagency Statement Clarifying the Role of Supervisory Guidance has had an impact on examination practices at your agency and, if so, explain how.

A.9.b. The Interagency Statement Clarifying the Role of Supervisory Guidance (Statement) emphasizes administrative law principles and clarifies that supervisory guidance does not have the force and effect of law. Since the issuance of the Statement, Board staff have held several training sessions with Federal Reserve System staff (including a mandatory session), developed internal materials examiner's reference, and followed-up with Reserve Banks regarding processes that are in place to ensure staff practices align with the Statement.

Q.9.c. Is there a review process at your agency to assure that there are no instances where examiners have wielded guidance, examina-

tion handbooks or policy statements with the power reserved for rules or laws (*i.e.*, basing MRAs or MRIAs or violations on them)?

A.9.c. All MRAs and MRIAs identified by examiners undergo a review processes involving various levels of staff and management before they are issued to the firm to ensure that they are issued appropriately. The specific review process varies based on the size of the firm and the issues presented. In addition, an appeals process exists for firms who wish to challenge MRAs and MRIAs.

Q.9.d. What assurance do you have that MRAs have not been based on guidance, examination handbooks, or policy statements?

A.9.d. In addition to the processes described above, the Board periodically conducts reviews of Reserve Bank practices as part of its oversight responsibilities articulated in the Federal Reserve Act.

Q.9.e. What type of study/survey/review could the agencies or industry permissibly conduct to assess whether examiners have wielded guidance, examination handbooks, or policy statements with the power typically reserved for rules or laws?

A.9.e. Supervisors regularly work to maintain an open dialogue with supervised institutions, including to hear concerns or critiques from those institutions about specific topics or about supervisory processes. Supervised institutions may also appeal material supervisory determinations that they receive from the Federal Reserve. Further, as noted in responses to other parts of this question, the Federal Reserve periodically reviews its internal guidance and processes to promote compliance with the law. This includes maintaining processes to assist in mitigating instances where guidance could be used improperly. We will always welcome any information from the industry or any other source that can help us ensure our supervisors are acting in compliance with the limitations on the role and use of guidance and other nonregulatory supervisory engagement.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNER FROM RANDAL K. QUARLES

Q.1. When Chairman Powell appeared before our Committee the last time, he was asked about the Fed's proposal to potentially establish a Real-Time Gross Settlement (RTGS) system that would compete directly with private sector payment services providers. Chairman Powell stressed, however, that before entering this market, the Fed must first "find that the services [it] provide[s] are . . . not something that the private sector can adequately provide." In other words, the Fed must first identify a market failure. Over the last several years, the private sector has, in fact, developed—in close collaboration with the Fed—a real-time interbank payment system that is already up and running, is already supervised the Fed, and was expressly designed to satisfy the functional, operational, and other criteria articulated by the Fed's Faster Payments Task Force. I understand that this private sector system can already reach more than half of the country's demand deposit accounts and that new participants—both banks and nonbanks—continue to connect, as the private sector works to reach the Fed's goal of establishing ubiquitous private sector real-time payments by the

end of next year. Accordingly, it would appear that the private sector is well on its way to reaching this goal.

Q.1.a. Has the Fed identified an existing or potential private sector market failure in real-time payments and, if so, on what basis was this determination made?

A.1.a. The Board announced on August 5, 2019, that the Reserve Banks will develop a new real-time payment and settlement service, called the FedNowSM Service, to support faster payments in the United States.

In assessing its criteria for new payment services, the Board considers input from the public, historical experience, and its own analysis to assess whether such services can be expected to generate public benefits that private-sector services alone may be unable to achieve.¹ Although my fellow Governors concluded that the development of the FedNowSM Service is appropriate at this time, I did not see a strong justification for the Federal Reserve to move into this area and crowd out innovation when viable private-sector alternatives are available. As a result, I voted against this action.

Q.1.b. If you don't believe you have to officially make that determination until you decide affirmatively to move forward with the creation of a Fed-run real-time payment system, presumably you gave this some thought before you issued the October request for information. Otherwise, why even propose to create a new real-time payments system if you didn't believe there has been, or likely will be, a market failure in the provision of real-time payments?

A.1.b. Please see the response to question 1.a.

Q.2. In justifying the need for the Fed to potentially enter the market for real-time interbank clearing and settlement services, Fed officials have suggested that a Fed-operated real-time payments system would provide market "resiliency." While I suppose that the existence of two or more real-time payment systems could, in theory, provide some degree of market resiliency, that theoretical resiliency would only exist if banks were connected to two completely redundant systems, at enormous cost and inefficiency.

Given that every bank in the country would have to join at least two systems: the private sector system and the yet-to-be-built Government-run system, which would be hugely inefficient, very costly for the private sector and, ultimately, the U.S. taxpayer, couldn't the Fed address any resiliency concerns through the exercise of its supervisory authority over the existing real-time payment system—as has been the approach in almost all other countries around the world?

A.2. Please see the response to question 1.a.

¹The Board considered whether private-sector real-time gross settlement (RTGS) services for faster payments alone could be expected to provide an infrastructure for faster payments with reasonable effectiveness) scope, and equity, and further, if private-sector services are likely to face significant challenges in extending equitable access. The Board also considered whether the development of the FedNowSM Service will likely yield clear and substantial benefits to the safety and efficiency of faster payments in the United States.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN
FROM RANDAL K. QUARLES**

Note: In the case that Vice Chair Quarles is unable to respond to the questions below because of his recusal from matters involving Wells Fargo, we request that another member of the Board of Governors of the Federal Reserve System respond to these questions in full.

As you are aware, I have voluntarily recused myself from voting on, or participating by decision or recommendation in, matters specifically involving Wells Fargo. The answers below describe matters of general applicability or public record and are consistent with my recusal decision.

Q.1. Federal banking regulators have the power to veto the hiring of new senior executives and board members at underperforming banks. 12 U.S.C. § 1831i requires any “insured depository institution or depository institution holding company” that is “not in compliance with the minimum capital requirement applicable to such institution or is otherwise in a troubled condition” to “notify the appropriate Federal banking agency of the proposed addition of any individual to [their] board of directors or the employment of any individual as a senior executive officer . . . before such addition or employment becomes effective.”[1] 12 U.S.C. § 1813 defines the “appropriate Federal banking agency,” in the case of “any bank holding company and any subsidiary . . . of a bank holding company” as “the Board of Governors of the Federal Reserve System.”[2]

The Federal Reserve requires any “regulated institution” (a “State member bank or a bank holding company”[3]) that is “not in compliance with all minimum capital requirements applicable to the institution” or that “is in troubled condition” to “give the Board 30 days’ written notice” before: (1) “adding or replacing any member of its board of directors”; (2) “employing any person as a senior executive officer of the institution;” or (3) “changing the responsibilities of any senior executive officer so that the person would assume a different senior executive officer position.”[4] The Federal Reserve defines “troubled condition” as an institution that “is subject to a cease-and-desist order or formal written agreement that requires action to improve the financial condition of the institution, unless otherwise informed in writing by the Board or Reserve Bank.”[5] Under 12 C.F.R. 225.72 and 225.73, the Federal Reserve has the power to “disapprove” of a proposed senior executive officer if it “finds that the competence, experience, character, or integrity of the individual with respect to whom the notice is submitted indicates that it would not be in the best interest” of the bank or the public “for the individual to be employed by, or associated with,” the bank.

Wells Fargo & Company is a registered bank holding company that “owns and controls Wells Fargo Bank, NA,” a “national bank,” that is currently subject to a cease and desist order from the Board of Governors of the Federal Reserve System.[6] Wells Fargo Bank, NA, is also subject to three open OCC consent orders.[7]

[1] 12 U.S.C. § 1831i.

[2] 12 U.S.C. § 1813.

[3] 12. C.F.R. 225.71.

[4] 12. C.F.R. 225.72.

[5] 12. C.F.R. 225.71.

[6] <https://www.federalreserve.gov/newsevents/pressreleases/files/enf20180202al.pdf>.

[7] Letter from Joseph M. Otting, Comptroller of the Currency, to Senator Elizabeth Warren, April 3, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.04.03%20OCC%20Response%20to%20Letter%20to%20OCC%20and%20CFPB%20re%20Wells%20 Fargo%20Auto%20Lending%20Settlement.pdf>.

Q.1.a. Does the Federal Reserve consider Wells Fargo & Company and/or Wells Fargo Bank, NA, to be in a “troubled condition” under 12 C.F.R. 255.71? If not, please explain why not.

A.1.a. The finding of a troubled condition is confidential supervisory information and privileged under the Rules Regarding Availability of information of the Federal Reserve Board (Board) at 12 CFR part 261. It is the Board’s general policy not to disclose confidential supervisory information to the public.

Q.1.b. Does the Federal Reserve consider Wells Fargo & Company to be “in compliance with all minimum capital requirements applicable to the institution?” If so, please explain why.

A.1.b. As of March 31, 2019, Wells Fargo & Company reported the following capital ratios on its Federal Reserve reporting form Y-9C.¹ Each reported ratio exceeds the minimum ratio required under the Board’s capital rule:

- Common equity tier 1 capital ratio: reported 11.92 percent (requirement is 4.5 percent);
- Tier 1 risk-based capital ratio: reported 13.64 percent (requirement is 6.0 percent);
- Total risk-based capital ratio: reported 16.74 percent (requirement is 8.0 percent);
- Tier 1 leverage ratio: reported 9.15 percent (requirement is 4.0 percent); and
- Supplementary leverage ratio: reported 7.78 percent (requirement is 3.0 percent).

On June 27, 2019, the Federal Reserve announced the results of its 2019 Comprehensive Capital Analysis and Review (CCAR) exercise and did not object to the capital plan of Wells Fargo & Company.

Q.2. On March 28, 2019, Wells Fargo announced that its CEO, Tim Sloan, was departing the bank.[1] According to C. Allen Parker, Wells Fargo’s interim CEO and President, the bank is actively engaging in “an external search . . . for the company’s new CEO and [P]resident.”[2]

[1] Wells Fargo, “Wells Fargo CEO and President Tim Sloan to Retire; Board of Directors Elects Allen Parker as Interim CEO and President,” March 28, 2019, <https://newsroom.wf.com/press->

¹<https://www.ffiec.gov/npw/FinancialReport/ReturnFinancialReportPDF?rpt=FRY9C&id=1120754&dt=20190331>.

release/corporate-and-financial/wells-fargo-ceo-and-president-tim-sloan-retire-board.

[2] *Id.*

Q.2.a. Does the Federal Reserve plan to conduct a review, as outlined in 12 C.F.R. 225.73, of the new Wells Fargo CEO and President selected by the bank at the conclusion of its search? If not, why not?

A.2.a. As noted in Question 1, whether an institution is in a troubled condition under 12 C.F.R. 225.71 is confidential supervisory information and cannot be disclosed publicly. If a firm is in troubled condition, then the Federal Reserve would review the firm's written notice and follow the requirements in the regulations.

Q.2.b. What factors does the Federal Reserve consider in assessing an individual's "competence, experience, character or integrity," as described in 12 C.F.R. 225.73? What information about an individual's competence, experience, character, or integrity" would be considered disqualifying for a senior executive or board member?

A.2.b. In each case, the Board conducts a review of these factors by collecting biographical and financial information regarding the individual, including criminal, administrative and other history. While the Board considers each notice in light of the facts and circumstances presented, the Board consistently has viewed certain derogatory information such as criminal conviction for a crime involving dishonesty, causing substantial harm or loss to a financial institution or the deposit insurance fund, or refusal to disclose similar biographical or financial information, as a basis for objection to a notice. The Board may consider other factors disqualifying in light of the facts and circumstances.

Q.2.c. What factors does the Federal Reserve consider in assessing what would be "in the best interests of . . . depositors . . . or the best interests of the public"?

A.2.c. In each case, the Board considers these factors in light of the facts and circumstances presented. In reviewing notices to appoint senior executive officers or directors, the Board has consistently considered ensuring the safe and sound operations and future prospects of the banking organization to be in the best interests of depositors or the best interests of the public.

**RESPONSE TO WRITTEN QUESTION OF SENATOR MORAN
FROM RANDAL K. QUARLES**

Q.1. S. 2155 requires your agencies to establish a community bank leverage ratio (CBLR), which Congress envisioned as a single, simple capital standard that would provide small financial institutions with regulatory relief. However, the CBLR you have proposed includes revisions to the Prompt Corrective Action (PCA) framework, which would effectively raise the PCA thresholds for community banks who choose to comply with the CBLR.

Given the negative regulatory consequences triggered when banks fall below the various PCA thresholds, I'm concerned your proposal will actually discourage community banks from ever opting into the CBLR framework. Are there changes to your CBLR

proposal that would make it less burdensome and more attractive for small community banks?

A.1. The Federal Reserve Board (Board), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) jointly issued a proposal that would allow community banking organizations, which meet certain qualifying criteria, to opt-in to a leverage-based capital framework, the Community Bank Leverage Ratio (CBLR). This framework would implement section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (EGRRCPA). Firms that use the framework would not be subject to risk-based capital requirements.

The proposal seeks to provide material burden relief, in the form of significantly simpler capital requirements and shorter reporting schedules, while maintaining safety and soundness in the banking system. The proposal included a proxy Prompt Corrective Action framework for less-than-well-capitalized community banking organizations. Under the proposal, firms that have elected to opt-in to the CBLR framework would have the option to revert to the current risk-based capital requirements at any time rather than be subject to the proposed proxy Prompt Corrective Action framework.

The Board is reviewing the comments received in response to the proposal and also has consulted with State-bank supervisors. Many commenters have raised concerns that the proposed proxy Prompt Corrective Action framework would unnecessarily increase complexity and could create a disincentive for firms to adopt the CBLR framework. As we move forward in the rulemaking process, we intend to work closely with the OCC and the FDIC to respond to the concerns of commenters and to develop a CBLR framework consistent with the objective of meaningfully reducing regulatory burden on community banking organizations, while maintaining safety and soundness.

We appreciate your feedback on this important issue, and the Board will carefully consider ways to ensure the CBLR framework effectively reduces regulatory burden for qualifying community banking organizations as we proceed through the rulemaking process. The implementation of section 201 of EGRRCPA is a priority of the Board.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCHATZ FROM RANDAL K. QUARLES

Q.1. In our exchange during the hearing, you informed me that the financial risks from changes in the climate itself, such as high temperatures, drought, and sea-level rise, do not factor into the Federal Reserve's supervisory processes.

Q.1.a. Why do these risks not factor into the Federal Reserve's current supervisory processes?

Q.1.b. Do you think it would be appropriate to consider how changes in the climate, in addition to the increased risk from severe weather events, present financial risks to the institutions that you supervise?

A.1.a.-b. The Federal Reserve Board (Board) requires that institutions understand, assess, manage, and hold both capital and reserves against a range of risks material to their operations. When potential risks arising from climate change are sufficiently salient for an institution, these same requirements apply. The ways that an institution satisfies these requirements, as well as more specific regulatory risk management requirements, may sometimes vary according to the characteristics of the institution. For example, the size of a banking institution, its location, and the composition of its activities could all affect the specific risks that it faces and the appropriate data and processes for managing them. In some cases, these risks could include risks associated with severe weather events, such as flooding or wildfires; if so, we expect institutions to establish a robust process for managing those risks.

Q.2. In our exchange, I asked if you take into account the relationship between climate change and increasing severe weather risks in the Federal Reserve's supervisory processes. You responded that the Federal Reserve evaluates banks' risk management systems, not their particular conclusions.

How does the Federal Reserve ensure that banks' risk management systems are adequately pricing in the risk from climate change?

A.2. Broadly speaking, the Board, together with other Federal and State supervisory authorities, works to ensure the safety and soundness of financial institutions, as well as the fair and equitable treatment of consumers in transactions with these institutions. During safety and soundness examinations, staff assess the nature of a banking institution's operations, the adequacy of its internal controls, and its compliance with relevant legal and regulatory requirements.

These confidential examinations are typically an "iterative process of comment by the regulators and response by the bank," as described by the U.S. Court of Appeals for the District of Columbia Circuit. If that iterative process reveals that a banking institution has inadequate risk management processes, examiners can and would pursue a range of options, ranging from an examination finding to a formal enforcement action, to remedy the issue. This process provides the flexibility to address the specific circumstances an institution faces, and ensure compliance with laws and regulations.

Q.2.b. For example, how do Federal Reserve supervisors make sure that banks are not relying only on historical trends when they assess their risk from severe weather events in the future?

A.2.b. During the examination process, the Board generally requires an institution to use a range of data, where relevant and available, to understand adequately, assess, manage, and hold capital and reserves against a range of material risks. Because the nature of that data may vary according to the nature and activities of the institution, the Board does not generally prescribe the use of specific data sources through regulation. However, firms are always encouraged to appropriately assess their risks using the best information available, which may, or may not, include historical data trends.

Q.2.c. Do Federal Reserve supervisors specifically discuss the financial risks from climate change with the institutions that they supervise?

A.2.c. As mentioned above, the banking examinations that the Federal Reserve conducts are an iterative, confidential, and candid process of comment and response. In the cases where we find an institution lacks an adequate process to address the financial risks it faces, we do not hesitate to either say so or require remediation as appropriate. Though the circumstances an institution faces and the scope of an examination discussion can vary, where risks associated with climate, severe weather, and other events are relevant, they would figure into such a discussion.

Q.3. I was encouraged to hear that you are “looking very closely at” and “actively encouraging that [the Federal Reserve] examine” the work of the Network for Greening the Financial System, the working group of 36 central banks and bank regulators that are developing analytic tools and best practices for incorporating the financial risks from climate change into bank supervisory processes.

Are you considering joining the group? If so, what is the timeline for making that decision?

A.3. At this point, no decision has been made on joining the Network for Greening the Financial System (NGFS). The Board is monitoring closely the activity of other central banks and supervisors on this issue, including activity taking place through the NGFS.

Q.4. I was also encouraged that we agree that the Federal Reserve should be engaged in learning more about risks to the financial sector, including the risks from climate change.

What next steps can you commit to taking in the next 6 months to further the Federal Reserve’s understanding of the financial risks from climate change and to incorporate that information into the Federal Reserve’s supervisory work?

A.4. Congress has entrusted agencies other than the Board with the primary responsibility of addressing climate change. However, we are aware of the emerging body of research and analysis on the financial risks associated with climate, and on improved measurement of the relationship between economic forecasts and climatologic projections. We are following the development of this research closely, particularly its application to the financial sector, and can commit to continuing to do so. Over the last several years, Federal Reserve economists have produced over 30 papers on the relationship of climate change to the economy and the financial sector, which continue to inform us as supervisory practices evolve. The Board also is a member of the Financial Stability Board, which I chair and which established the Task Force on Climate-related Financial Disclosures (Task Force) in 2016 to develop voluntary and consistent climate-related financial disclosures for private companies. The Task Force is voluntary and comprised entirely of private sector participants. Since 2016, the Task Force has produced annual reports summarizing the uptake of its recommendations by the private sector and areas to improve disclosure of climate-related business risks.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ
MASTO FROM RANDAL K. QUARLES**

Q.1.a. How are you improving the culture and strengthening the compliance division at the financial institutions you regulate, to ensure that Suspicious Activities Reports are being filed, fake accounts are not created, and customers are treated fairly?

A.1.a. We regularly examine financial institutions under our supervision for general safety and soundness, Bank Secrecy Act/Anti-money Laundering (BSA/AML) compliance, and consumer compliance.

Our supervisory expectations include that a financial institution's board of directors would focus on setting the types and levels of risk the firm is willing to take, make certain that senior management effectively carries out the firm's strategy within the established risk tolerances, and hold management accountable for its actions, including responsibility for effective risk management and compliance.

The examination process may highlight deficiencies that need to be remediated regarding actions the board of directors could take, for example, to enhance oversight of compliance risk management, deficiencies that require management to enhance policies and procedures regarding the firm's BSA/AML risk assessment, or findings of violations of law for failure to file suspicious activity reports. Supervisory findings for weak risk management may be based upon concerns that a particular institution is not managing risks related to safety and soundness standards appropriately, as well as BSA/AML and consumer compliance laws and regulations. An institution's failure to address those concerns could lead to findings of safety or soundness concerns or violations of laws or regulations.

Through this process, we seek to ensure that the compliance at financial institutions under our supervision is strong; that the financial institutions' boards of directors and management have a demonstrated commitment to compliance; and that those institutions are complying with regulatory requirements such as filing appropriate Suspicious Activity Reports.

Q.1.b. Do problems with incentive pay practices that incent staff to engage in fraud or unfair practices still exist at the financial institutions you regulate?

A.1.b. The Federal Reserve Board's (Board) supervisory process continues to monitor firms' progress at evaluating risk in their incentive compensation programs. Any unsafe and unsound practices that are identified are dealt with through established supervisory channels.

The Guidance on Sound Incentive Compensation Policies (guidance),¹ issued in June 2010, is anchored by three principles: balance between risks and results, processes and controls that reinforce balance, and effective corporate governance. Well-structured incentive compensation arrangements should take into account the full range of current and potential risks. Poorly structured incentive compensation arrangements that provide executives and employees with incentives to take inappropriate risks are not con-

¹ See 75 FR 36395 (June 25, 2010).

sistent with the guidance and the long-term health of the institution.

Q.2. Will you ensure access to information from community reinvestment advocates through the Freedom of Information Act with timely responses and without requiring high fees?

A.2. The Freedom of Information Act sets forth the process for releasing agency information to the public, the permissible exemptions to the release of information, and the rules regarding permissible fees. All requests are processed in conjunction with these statutory requirements. The Board makes every effort to provide timely and complete responses, including requests from community reinvestment advocates. Frequently, no fees are charged. The Board will continue to work to ensure that all requests, including those from groups such as community reinvestment advocates, are answered in a timely manner.

Q.3. There has been an epidemic of fake comments on controversial issues. How will you ensure that comments on rules and mergers are accurate and not based on stolen identities?

A.3. Any comment made under a stolen identity is a matter that the Board takes seriously in its public comment process. The Board generally accepts and considers all comments but allows individuals whose identity has been stolen to remove those illicitly published comments from the Board's website. It is the substance of the argument contained in a comment letter that contributes most to an agency's consideration of an issue, not the identity of the commenter.

Q.4. Recently, the Office of Management and Budget released a memorandum reinterpreting the Congressional Review Act to include independent regulatory agencies, many of which are your agencies. What would be the impact of requiring OMB review of proposed rules and guidance on your agency?

A.4. The Board takes seriously its responsibilities with respect to the Congressional Review Act (CRA). The CRA applies to all Federal agencies, including independent agencies. Under the CRA, before a rule can take effect, the rule must be submitted to Congress and the Government Accountability Office. The CRA only applies to final rules.

On April 11, the Office of Management and Budget (OMB) issued a memorandum to the heads of the executive departments and agencies providing new guidance on how agencies, including independent agencies, should submit rules to the OMB to facilitate its determination of whether a rule is major under the CRA. We are currently reviewing OMB's guidance.

Q.5. The most recent National Climate Assessment said the U.S. Southwest could lose \$23 billion per year in region-wide wages as a result of extreme heat. Has the Federal Reserve conducted any research on how extreme heat will affect the economy of the Southwest and the broader United States, and how that will impact regional financial institutions?

A.5. We are aware of the emerging body of research and analysis on the financial risks associated with climate, and on improved measurement of the relationship between economic forecasts and

climatological projections. We are following the development of this research closely, particularly in its application to the financial sector, and can commit to continuing to do so. Over the last several years, Federal Reserve economists have produced over 30 papers on the relationship of climate change to the economy and the financial sector, which continue to inform us as supervisory practices evolve. The Board also is a member of the Financial Stability Board, which I chair and which established the Task Force on Climate-related Financial Disclosures (Task Force) in 2016 to develop voluntary and consistent climate-related financial disclosures for private companies. Since 2016, the Task Force has produced annual reports summarizing the uptake of its recommendations by the private sector and areas to improve disclosure of climate-related business risks.

Q.6. As you conduct your supervisory work, are you taking into account the evidence that extreme heat is going to get worse?

A.6. As stated in the response to question 5, we are following the development of relevant research closely, particularly in its application to the financial sector. In the course of its supervisory work, the Board does use its authorities and tools to prepare financial institutions for a wide range of risks. Supervisors work with institutions to ensure they understand and manage effectively a wide range of risks, including those associated with severe weather events. To the extent these risks increase, we expect financial institutions to adjust their risk management strategies accordingly.

Q.7. In your testimony to Senator Schatz, you stated that the Federal Reserve requires banks to look at a “broad range” of data. What data do you require financial institutions to use when calculating climate-based risk?

A.7. The Board requires institutions to understand, assess, manage, and hold both capital and reserves against a range of risks material to their operations. The most appropriate way for an institution to meet these requirements—and the most relevant information it uses to do so—may vary according to the characteristics and activities of the institution. The banking institutions we regulate are all expected to measure the risks associated with their businesses, including loans. Large institutions typically gather data on the probability of default or loss given default of their loans. Over time, factors related to climate change would be expected to affect these measurements.

Q.8. Does the Federal Reserve request banks to utilize climate change data when calculating risk? If so, how does the Federal Reserve ensure that the data and methodology are accurate?

A.8. The Board requires that institutions employ a range of appropriate data in order to adequately understand, assess, manage, and hold capital and reserves against a range of material risks. The nature of that specific data can vary according to the circumstances a specific institution faces, and such data typically comes from both internal and external sources to an institution. In order to preserve flexibility to address the specific situation an institution faces, the Board does not generally prescribe the use of specific data sources through regulation.

Q.9. What data do you require financial institutions to use when calculating exposure to severe weather events?

A.9. The financial institutions that the Board regulates retain an obligation to understand, assess, manage, and hold capital and reserves against the material risks to which they are exposed. Depending on the circumstances an institution faces, the data that are relevant to doing so may differ—depending, for example, on whether an institution’s credit exposures are secured by coastal or plain property, or are tied to business revenues in agriculture or construction. We expect institutions to use a range of risk-management data appropriate to their activities, and our supervisors retain the flexibility to determine whether the use of such data conforms with safety and soundness requirements.

Q.10. In supervisory exams, how does the Federal Reserve analyze whether banks are adequately accounting for severe weather exposure to book their risk and ensure that the data and methodology is accurate?

A.10. Credit risk examinations generally focus on the adequacy of an institution’s policies and procedures for managing the risks associated with its credit portfolio, including the risk of credit losses. In addition to a review of those policies and procedures, examiners may conduct a review of loan files for conformance with rules related to loss estimation with the priority of preserving the integrity of the allowance for loan and lease losses. The Board’s examination manuals and related guidance outline our approach to such reviews in greater detail.

Q.11. What metrics will show that deregulatory actions such as easing the supplementary leverage ratio, deploying a countercyclical buffer, and easing standards for large bank resolution plans and foreign banks, will result in increased risk to financial stability?

A.11. Post-crisis reforms relating to capital, liquidity, stress testing, and resolution planning have resulted in significant gains in resiliency for individual banking organizations and for the financial system as a whole. Recent Board proposals would maintain the most stringent standards for the largest and most complex banking organizations, while reducing costs for smaller, less risky, and less complex firms that engage in more traditional banking activities.

For example, the proposal to revise the enhanced supplementary leverage ratio (eSLR) standard for U.S. global systemically important banks would not result in a material reduction in capital at these firms’ top-tier holding companies. The Board (together with the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC)) also issued a proposal to implement section 402 of S. 2155, which requires the agencies to revise the supplementary leverage ratio to exclude central bank deposits of custody banks. We are considering comments on the section 402 proposal before taking further action on last year’s eSLR proposal, with the goal of not materially reducing the level of regulatory capital in the banking system.

The more recent proposed changes to the framework for determining prudential standards for large domestic and foreign banking organizations would represent modest refinements. In par-

ticular, Board staff estimates that while these proposals would result in a small reduction in required capital under current economic conditions, the impact should be roughly neutral measured over the economic and credit cycle. For liquidity, the proposals would moderately reduce requirements for firms with the lowest indicators of risk, and modestly increase requirements for certain foreign banking organizations with higher indicators of risk. With respect to resolution planning, the tailoring proposal would modify the content and frequency of resolution plans, but it would not reduce the substantive standards used to review resolution plans, and the Board may always request information between submissions. All of these proposals have been issued for public comment, and the Board is carefully reviewing and considering the comments that were received.

The Board assesses continually whether the financial system has reached a state where additional capital would be required through the activation of the countercyclical capital buffer. Most recently, the Board found that meaningful vulnerabilities related to asset valuations and commercial borrowing are balanced by more modest vulnerabilities associated with household debt as well as the historically low levels of bank leverage and funding risk.

Q.12. Is it still the case that nearly 20 percent of outstanding supervisory findings relate to weaknesses in Bank Secrecy Act (BSA) and Anti Money Laundering (AML) programs?

A.12. Outstanding supervisory findings vary across supervisory areas from year to year. For large firms, in particular, sound governance and controls are especially important, given the increased size, complexity, and scope of operations, as well as the challenges that arise from managing such large entities effectively across their various business areas.

The November 2018 Supervision and Regulation Report included information on supervisory ratings and outstanding supervisory findings. For example, the report indicated that, for community banking organizations and regional banking organizations, roughly between 10 and 20 percent of outstanding supervisory findings relate to BSA/AML compliance.² As indicated in the May 2019 report,³ there have not been significant changes to this information since last November.

Our interest is in being clear and transparent with our firms regarding our supervisory expectations and findings. When we issue a supervisory finding, we are committed to providing early supervisory feedback that encourages institutions to remedy weaknesses promptly to avoid more serious compliance or safety and soundness issues.

Q.13. What is the Federal Reserve's next step following the joint guidance on BSA/AML published late last year?

A.13. Last year there were two joint statements regarding BSA/AML requirements: On October 3, 2018, an Interagency Statement

²See Supervision and Regulation Report, Board of Governors of the Federal Reserve System, pp. 26–28 (Nov. 2018) (available at <https://www.federalreserve.gov/publications/files/201811-supervision-and-regulation-report.pdf>).

³See <https://www.federalreserve.gov/publications/files/201905-supervision-and-regulation-report.pdf>.

on Sharing Bank Secrecy Act Resources⁴ was issued to address instances in which banks may decide to enter into arrangements to share resources to manage their BSA/AML obligations more efficiently and effectively, particularly for banks with a community focus, less complex operations, and lower-risk profiles for money laundering or terrorist financing. On December 3, 2018, a Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist Financing was issued encouraging banks to take innovative approaches to meet BSA/AML compliance obligations.⁵ Banks with effective compliance programs will not be criticized if they choose not to take innovative approaches.

Federal Reserve staff is working cooperatively with the U.S. Treasury, the Financial Crimes Enforcement Network, the National Credit Union Administration, as well as the other Federal banking agencies to review the broader BSA/AML regime to determine what improvements can be made. The agencies are considering, among other topics: (1) ways to improve transparency of the risk-focused approach to the BSA/AML examination process; and (2) further clarification to our BSA/AML supervision and enforcement process.

Q.14. Do you expect to see more bank mergers this year and next year than in previous years? How much of merger activity is due to changes from S. 2155 and other regulatory actions?

A.14. Merger activity is affected by a number of factors, including economic environment, industry outlook, and factors unique to particular institutions or business models. As such, the Board cannot draw conclusions on the effect of S. 2155 or other regulatory actions at this time. Following the implementation of S. 2155, the volume of merger applications submitted to the Federal Reserve System declined compared to the volume of applications submitted during the same period in 2017. In fact, the number of merger applications submitted to the Board is currently lower than in the years before the financial crisis.

Q.15.a. Beyond the impacts on the customer, what are the risks to communities when banks merge?

A.15.a. The integration of systems relating to risk management, information technology, BSA/AML, and compliance with consumer protection laws and the Community Reinvestment Act (CRA) could present merged institutions with increased operational risks. In reviewing bank merger and acquisition proposals, the Board considers the applicant's plans for implementing the proposal and its capacity to do so effectively.

The Board carefully weighs the impact on communities in assessing bank merger and acquisition proposals. In considering such proposals, the Board evaluates the applicant's current and pro forma financial condition and future prospects, managerial resources, the convenience and needs of the communities to be served, public benefits, and the effects of the proposal on the financial stability of the United States. The Board also must analyze the competitive effects of the proposal, including whether the proposal

⁴ See <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20181003a1.pdf>.

⁵ See <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20181203a1.pdf>.

would substantially lessen competition in any section of the country. In addition, the Board considers the applicant institution's business model, its marketing and outreach plans, the institution's plans following consummation of the proposal, and other relevant information.

Q.15.b. Are you concerned about a loss of branches? Types of products? Jobs?

A.15.b. In evaluating convenience and needs factors in bank acquisition and merger proposals, the Board considers all relevant information, including the addition of new products, extended hours of service, or additional branch locations that will be subsequently available to the public. With respect to branch closures, banks are required to adhere to Federal Deposit Insurance Act public notice requirements before closing branches.⁶ This Act provides that:

- The bank is required to provide the public with at least 30 days' notice, and the appropriate Federal supervisory agency with at least 90 days' notice, before the date of a proposed branch closing.
- The bank also is required to provide reasons and other supporting data for the closure, consistent with the institution's written policy for branch closings.
- For branches to be closed in low- or moderate-income geographies, affected persons have the ability to request a public meeting to explore the feasibility of obtaining adequate alternative facilities and services for the area.

A pattern of branch closures in minority communities may also be relevant in determining whether a bank is in compliance with fair lending laws, for example, in determining whether a bank is engaging in redlining whereby a lender provides unequal access to credit, or unequal terms of credit, because of the race, color, national origin, or other prohibited characteristic(s). In a redlining analysis, branching is one of the factors that is considered, along with CRA assessment area, lending, marketing, and outreach practices. In evaluating branching for these purposes, we analyze whether there are bank branches in majority-minority census tracts.

The Board considers the applicant's plans for products and services to be offered by the combined institution, including significant anticipated changes to products and services currently offered by the individual institutions and plans to offer new, replacement, or enhanced products and services. Many acquiring banks plan to offer the products and services of both the acquiring bank and the target bank throughout the footprint of the combined bank, resulting in increased availability of products and services for customers of each bank.

The Board reviews applications pursuant to the applicable statutory factors.

⁶Section 42 of the Federal Deposit Insurance Act (12 U.S.C. § 1831r-1), as implemented by the Joint Policy Statement Regarding Branch Closings (64 Fed. Reg. 34844 (1999)). The Joint Policy Statement Regarding Branch Closings states that the Federal banking agencies will examine for compliance with branch closure requirements in accordance with each agency's consumer compliance examination procedures.

Q.16. You recommended revisions to the liquidity coverage ratio, but outsiders have raised concerns that this change will weaken buffers. How will the Federal Reserve ensure that banks have enough capital on hand to withstand a downturn?

A.16. The Board's liquidity framework for large banking organizations has two general components: standardized measures, such as the liquidity coverage ratio rule or net stable funding ratio proposed rule, and firm-specific measures, such as liquidity risk management requirements and internal stress-testing requirements.

The recent proposals to further tailor prudential standards would reduce or remove standardized liquidity requirements for some firms, but they would retain the firm-specific measures for all domestic firms with \$100 billion or more in total assets and foreign banking organizations with \$100 billion or more in combined U.S. operations. As a result, the proposals would continue to require these firms to meet liquidity risk management standards, conduct internal liquidity stress tests, and hold a buffer of highly liquid assets sufficient to meet projected 30-day stressed cashflow needs under internal stress scenarios. The proposals would also require these firms to maintain regulatory reporting of key liquidity data, which facilitates the Board's supervision of liquidity-related risks. In addition, the Federal Reserve will continue to assess the safety and soundness of firms through the normal course of supervision.

Taken together, these firm-specific standards and data reporting requirements will allow supervisors to continue to achieve regulatory objectives but improve upon the simplicity, transparency, and efficiency of the framework. In this manner, the proposals build on the agencies' existing practice of tailoring regulatory requirements based on the size, complexity, and overall risk profile of banking organizations.

The core reforms put in place after the financial crisis—stronger capital and liquidity requirements, stress testing, and resolution planning—have made our financial system more resilient, and I would not want to see any material weakening of these reforms. The objective of the proposals is to tailor prudential standards to the risks of large banking organizations without undermining the significant steps the Board and other agencies have made toward improving financial stability. Firms with the most significant risk profiles would remain largely subject to existing requirements.

Q.17. As you move from regulation based on firm size to regulation based on firm activity, tailoring rules gets more complicated. How will you design the scenarios to assess potential risks?

A.17. On November 29, 2013, the Board adopted a final policy statement on its scenario design framework for stress testing (policy statement). This policy statement outlines the considerations and procedures that underlie the formulation of the supervisory scenarios and specifies how the Board designs the supervisory scenarios to assess potential risks firms face.⁷ The Board adheres to the scenario design framework each year.

⁷The policy statement was most recently amended to limit procyclicality in the stress test through scenario design and clarify the Board's approach to setting the path of the unemployment rate and house prices in the macroeconomic scenarios. See 84 FR 6651 (February 28, 2019).

The macroeconomic scenario developed by the Board each year features a severe economic downturn that would affect all firms subject to stress tests in a given year. In addition, the Board applies two additional scenario components relating to trading and counterparty exposures to only the largest and most complex firms. Separately, firms are expected to test their vulnerabilities to idiosyncratic shocks in their stress tests.

The scenario design framework allows for the inclusion of salient risks in the economic and financial environment. While the recession component of scenario design is developed according to quantitative guides described in the Board's policy statement on scenario design, the salient risk aspect is developed after an annual assessment.

Each year, the Board identifies risks to the financial system and domestic and international economic outlooks that appear more elevated than usual using internal analysis and supervisory information. The Board consults with the FDIC and OCC in identifying appropriate salient risks to incorporate in the scenario.

Q.18. Regarding stress tests, if the Federal Reserve provides the "study guide for the exam" ahead of time, how do you ensure that your staff have all the answers? What are you giving up when you eliminate the requirement that banks devise their own stress tests prior to complying with the Fed's tests?

A.18. The Board is committed to increasing the transparency of its stress-testing process, and we have and will continue to guard against the risk that firms manage to the test. We have made additional information about our stress tests available, but importantly, we have not disclosed the full details of our models. I agree that we need to protect against gaming of the stress tests, which would make them less effective and would undermine the financial stability gains we have made.

The enhanced disclosure of our supervisory models represented a considerable increase in the transparency of the stress-testing regime. The disclosure provides the public with more information about the models but should not give firms enough information for banks across the system to simply "clone" the Board's models in ways that could lead to an accumulation of risks around the errors and idiosyncrasies of those models. I believe that the recent disclosure of our supervisory model methodology strikes a good balance between the benefits of enhanced transparency and the risks associated with providing firms too much detail about our models.

To the second point, the largest and most complex firms are still required to develop their own stress tests. The Board recently proposed to remove this requirement for firms with total consolidated assets below \$250 billion as required under the Economic Growth, Regulatory Relief, and Consumer Protection Act. In this proposal, the Board invited public comment on a framework that would more closely match regulations for large banking organizations with their risk profiles.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SMITH
FROM RANDAL K. QUARLES**

Q.1. What are you doing to ensure that no consumer will be forced to pay a higher interest rate under a LIBOR replacement than under LIBOR?

A.1. The Federal Reserve Board (Board) has taken a number of steps to address the transition away from the London Inter-bank Offered Rate (LIBOR). For example, the Board has participated in discussions of the Alternative Reference Rates Committee (ARRC). The ARRC is a diverse group of private sector firms and institutions that has widespread support from the U.S. official sector. In addition to the Board, the Consumer Financial Protection Bureau (CFPB), the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Authority (FHFA), the Federal Reserve Bank of New York, the Office of the Comptroller of the Currency, the Office of Financial Research, the Securities and Exchange Commission, and the U.S. Treasury Department, all act as *ex officio* members of the ARRC. The ARRC is addressing issues related to consumer borrowing products that are currently based on LIBOR through its Consumer Products Working Group. This group includes a wide set of consumer advocates, lenders, investors, and servicers as members. The group also includes representatives of the Federal Reserve, CFPB, Conference of State Bank Supervisors, and FHFA, as *ex officio* members.

The work of this group is focused both on (1) proposing models for new loans that are based on the Secured Overnight Financing Rate (SOFR), the ARRC's recommended alternative to LIBOR, and (2) crafting fallback strategies for loans that reference LIBOR in order to ensure any replacement rates are determined in a fair, transparent, and objective manner. These initiatives are voluntary—the ARRC does not have authority to force either use of SOFR or its suggested replacement strategies for LIBOR. However, the guiding principles set out by the ARRC for this working group, the active participation of consumer advocacy groups, and the involvement of prudential regulators, are all designed to ensure that any ARRC proposals for new products based on SOFR can both meet the needs of consumers and be competitively priced, and that ARRC proposals for replacement rates in products referencing LIBOR are fair for consumers, and are chosen and communicated transparently.

Q.2. There may be significant costs for LIBOR transition—rewriting potentially millions of contracts and changing complex systems. Who will bear those costs? Will it be the large banks that broke the LIBOR index? Or will it be consumers, small banks, and credit unions who played no role in the LIBOR manipulation scandal?

A.2. The costs of rewriting contracts and changing internal systems will necessarily be borne by the lenders and issuers of LIBOR instruments. Large banks, which are much more active in derivatives markets (representing an estimated 95 percent of all LIBOR exposures) and which also have large lending books based on LIBOR, will therefore bear much of these costs. Small banks and credit unions tend to have much smaller exposures to LIBOR, and the

ARRC is working to provide tools that can help to minimize the costs they may face, both by proposing clear contract language that these institutions can use as they rewrite contracts and by working with vendors to make sure that the systems they offer to these institutions can accommodate the move from LIBOR.

Q.3. How do you assess the current state of industry preparation for LIBOR transition? Are there areas of concern with the transition? If so, what areas?

A.3. The ARRC has made significant progress since SOFR was established a little over a year ago. Over that period, we have seen new derivatives and debt markets based on this new rate emerge. SOFR futures, which did not exist a year ago, have seen more than \$7 trillion in cumulative notional volumes, and firms have issued \$136 billion in SOFR-linked debt issued over the past year.

While the progress of transition has been good, at the same time, we have only a little over two and a half years until the point at which LIBOR could end, and the transition needs to continue to accelerate. The public officials have tried to be clear that market participants cannot assume that they will be able continue to rely safely on LIBOR. If the private sector does not take on this responsibility and begin to move away from LIBOR at a greater speed over the next year, then that would be a concern.

The largest banks supervised by the Federal Reserve, have already put in place organized programs to manage the transition. The Federal Reserve will expect to see an appropriate level of preparedness at the banks we supervise, and that level must increase as the end of 2021 grows closer. Our supervisory approach will continue to be tailored to the size of institutions and the complexity of LIBOR exposure, but the largest firms should be prepared to see our expectations for them increase.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM RANDAL K. QUARLES

Q.1.a. In 2015, regulators created new collateral requirements for swaps made between affiliates of the same company, known as inter-affiliate margin requirements. These requirements are inconsistent with international regulators and have tied up \$40 billion in capital, putting U.S. banks at a competitive disadvantage and freezing up investment back into the economy. In the past, you've stated that resolving inter-affiliate margin requirements should be a priority.

Is this still your view?

A.1.a. Yes. The Federal Reserve Board (Board) is actively discussing this aspect of the rule with the other prudential regulators to assess what, if any, changes can be made consistent with the statutory directive that margin requirements help to ensure the safety and soundness of covered swap entities and are appropriate for the risk associated with noncleared swaps.

Q.1.b. Can you provide a timeline for when the issue will be addressed?

A.1.b. The Board is working to address the issue as soon as possible.

Q.2.a. Cybersecurity is a chief concern for U.S. financial institutions and the agencies that regulate them. What is your assessment of the current examination process and regulatory landscape for regulated institutions with respect to cyber?

A.2.a. Cybersecurity remains a top supervisory priority, as it has implications for the safe and sound operations of financial institutions as well as financial stability. To that end, significant supervisory work has been conducted to assess cybersecurity risk management at financial institutions of all sizes, as well as across the financial sector. The Board uses a variety of examination processes based on the size and complexity of financial institutions. As cyber threats continue to evolve, further work will be needed within the Board and among regulators to evolve with the dynamic cyber risks at individual institutions and across the financial sector.

At the Board, work is well underway to streamline our risk-based examination programs by tailoring examination guidance to financial institutions' risk profiles and standardizing processes and work programs. The goal of this work is to enable more effective and efficient examinations of financial institutions, for example leveraging interagency examinations of service providers to minimize the burden on financial institutions that outsource their significant IT functions.

Additionally, in an effort to reduce regulatory burden, we are working with the other prudential regulators to identify instances where we can better work together on examinations and concentrate appropriate resources to address cyber risk. We also have broadened our engagements with the private and public sector to strengthen our shared understanding of operational resilience within the financial services sector.

Q.2.b. How can Federal agencies improve and help harmonize cybersecurity regulations?

A.2.b. The Board is working with other Federal regulatory agencies to streamline and harmonize cybersecurity guidance across the financial sector in a manner that aligns with the National Institute of Standards and Technology Cybersecurity Framework, which was developed in consultation with Government and the private sector. For example, through venues such as the Financial and Banking Information Infrastructure Committee, the Board, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission are engaged in cybersecurity regulatory harmonization activities designed to identify opportunities to further coordinate cybersecurity supervisory activities for firms that are subject to the authority of multiple regulators.

**RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN CRAPO
FROM JELENA McWILLIAMS**

Operation Choke Point

Q.1. Operation Choke Point and other similar initiatives began in the Obama administration as a part of the supervisory process. I have repeatedly expressed concern over the lack of accountability in the supervisory process. On November 7, 2018, several of my

Republican Banking Committee colleagues and I wrote to you about Operation Choke Point. On November 15, 2018, you responded saying that you asked an outside law firm to review the FDIC's prior actions regarding Operation Choke Point so that you can better determine the effectiveness of your response to the matter. Furthermore, you referenced guidance in a 2015 Financial Institutions Letter, policies from a 2015 memorandum to Regional Directors, additional training for examination staff and your "Trust through Transparency" initiative.

Can you provide an update on the results so far of the steps taken by the FDIC as outlined in the letter, as well as any additional steps taken to address concerns around Operation Choke Point (and any similar initiatives), including any changes to the FDIC's approach to the supervisory process?

A.1. Since beginning my tenure, I have made clear that employees' personal views should have no place in how they supervise the banks overseen by the FDIC. I have personally reinforced this message to our staff on multiple occasions, including a global message sent to all FDIC employees on November 16, 2018.

In response to Congressional inquiries, the FDIC retained an outside law firm to conduct a review of the previous examinations into the FDIC's involvement in "Operation Choke Point." As part of its retention, the law firm has reviewed the findings from prior reports regarding this matter, including an audit performed by the FDIC's Office of Inspector General,¹ a report by the U.S. House of Representatives Committee on Oversight and Government Reform,² as well as other public documents. The law firm's review is nearing completion and I expect to receive the results in the coming weeks.

To ensure that every FDIC examiner understands our policy and does not deviate from it, we instituted a new examiner training program in April that we expect every examiner to complete by the end of the year. The new program focuses on the FDIC's policy that banks are neither prohibited nor discouraged from providing banking services to any customer operating in compliance with applicable State and Federal law and the rare and limited circumstances under which examiners may recommend that institutions terminate account relationships.

On May 22, 2019, the FDIC made public its internal policy that sets forth the process required to be followed by FDIC employees for any situation in which the FDIC may recommend that a financial institution terminate a customer's deposit account, and reiterated outstanding public guidance established in January 2015 to financial institutions about providing banking services and carrying

¹ See FDIC Inspector General Audit: The FDIC's Role in Operation Choke Point and Supervisory Approach to Institutions that Conducted Business with Merchants Associated with High-Risk Activities, AUD-15-008 (September 2015), available at <https://www.fdicig.gov/sites/default/files/publications/15-008AUD.pdf>.

² See Report of the U.S. House of Representatives Committee on Oversight and Government Reform: Federal Deposit Insurance Corporation's (FDIC) Involvement in "Operation Choke Point," (December 8, 2014), available at <https://republicans-oversight.house.gov/report/federal-deposit-insurance-corporations-fdic-involvement-operation-choke-point/>.

out Bank Secrecy Act (BSA) obligations.³ Before recommending that a financial institution terminate a customer's deposit account, an examiner must consult with his or her Regional Counsel and receive the approval of his or her Regional Director. Regional Directors are required to report any recommendations for account termination to the Directors of the Divisions of Risk Management Supervision and Depositor and Consumer Protection on a quarterly basis, who in turn report these statistics to the FDIC Board of Directors each quarter. Since January 2015, when these policies were first established to govern recommendations to close deposit accounts, FDIC staff have not made any recommendations to FDIC-supervised banks to close deposit accounts.

The Volcker Rule

Q.2. In October 2018, six Republican Banking Committee Members and I wrote to your agencies expressing our support for your inter-agency efforts to revise the Volcker Rule. We also urged you to re-examine and tailor the Volcker Rule further, including by using the discretion provided by Congress to revise the definition of “covered fund” or include additional exclusions to address the current definition’s overly-broad application to venture capital, other long-term investments and loan creation, and address concerns around the proposed accounting prong.

What are the next steps for considering comprehensive revisions to the agencies’ proposed rule?

A.2. The comment period for the Volcker Rule Notice of Proposed Rulemaking (Volcker 2.0 NPR) ended on October 17, 2018, and approximately 151 comment letters were received by the five agencies responsible for implementing the Volcker Rule (*i.e.*, the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FRB), the FDIC, the Securities and Exchange Commission (SEC), and the Commodities Futures Trading Commission (CFTC); collectively, the “agencies”).⁴ Since the end of the comment period for the Volcker 2.0 NPR, the agencies have been carefully considering those comments, including your letter from October 2018, and working towards the goal of issuing a final rule in the coming months. Some aspects of the proposal, such as the definition of “covered fund” and specific exclusions from that definition, may need to be reissued for public comment. A reissuance may be necessary because in the Volcker 2.0 NPR the agencies did not propose new exclusions from the definition of covered fund but instead requested comment on how to better define covered fund to address the concerns you raised, among other matters.⁵

³ See FDIC Statement Summarizing FDIC Policies and Guidance, with Accompanying Letter to Plaintiffs (May 22, 2019), available at <https://www.fdic.gov/news/news/press/2019/pr19040a.pdf>.

⁴ See OCC, FRB, FDIC, SEC, and CFTC Notice of Proposed Rulemaking: Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, 83 Fed. Reg. 33432 (proposed July 17, 2018) (to be codified at 17 C.F.R. Part 75), available at <https://www.govinfo.gov/content/pkg/FR-2018-07-17/pdf/2018-13502.pdf>, and OCC, FRB, FDIC, SEC, and CFTC Extension of Comment Period for Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, 83 Fed. Reg. 45860 (proposed September 11, 2018), available at <https://www.govinfo.gov/content/pkg/FR-2018-09-11/pdf/2018-19649.pdf>.

⁵ *Ibid.*

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM JELENA McWILLIAMS**

Meeting Schedule

Q.1. Please provide to the Committee a detailed list of all meetings with individuals or groups not directly affiliated with the agency you serve, from the date of your confirmation by the Senate to present.

A.1. The FDIC Chairman's official calendar is available through the FDIC's website and is updated on a periodic basis. It can be viewed at <https://www.fdic.gov/about/freedom/chairmanschedule.html>.

Leveraged lending

Q.2. In a letter dated May 13, 2019, I asked you to be prepared to share detailed responses to the leveraged lending questions in my April 11, 2019, letter to Financial Stability Oversight Council Chair Mnuchin and to provide supporting data to the Committee as part of your testimony. While I understand from the OCC's and FDIC's written testimony that they will continue to monitor leveraged lending risks, you did not provide information in response to my specific questions. Please provide detailed responses to the five questions in my May 13, 2019, and April 11, 2019, letters.

A.2. *Questions from May 13, 2019, and April 11, 2019, letter:* "... Regulators must demonstrate that they are responding to threats to financial stability before the real economy suffers. To that end, please provide me the following:

1.-5. Any analyses of the leveraged lending market that the Council and its member agencies have performed in the last 2 years; any other Council documents discussing the risks of leveraged lending and staff recommendations to address those risks; a list of all Council meetings where leveraged lending was discussed, including the dates of those meetings, attendees, and materials presented; a list of supervisory or other actions that the Council and its member agencies have taken at regulated institutions in order to address risks in the leveraged lending market, especially with regard to weak underwriting standards; and a description of how FSOC is monitoring leveraged lending markets and what actions it plans to take to protect the economy from threats in credit and lending markets.

Response: Leveraged lending has been a topic of discussion by the Financial Stability Oversight Council (FSOC) over the past 2 years. While the Treasury Department and FSOC staff are the most appropriate sources for details regarding the council's work in this area, information regarding several analyses presented over the past 2 years is publicly available, including:

- **An update on nonfinancial corporate credit presented at the March 6, 2019, FSOC meeting in Executive Session** (https://home.treasury.gov/system/files/261/March_062019_minutes.pdf). Ted Berg, Senior Financial Analyst at the Office of Financial Research (OFR); Dan Li, Section Chief

of Financial Intermediaries Analysis in the Division of Monetary Affairs at the Federal Reserve; and Charles Press, Senior Financial Institution and Policy Analyst in the Division of Monetary Affairs at the Federal Reserve, addressed: (1) four key vulnerabilities that have emerged due to the low interest-rate environment and the long-credit cycle, and (2) the increasing importance of nonbank lenders, particularly in leveraged loans, and exposures of banks to corporate credit markets. (Discussion begins on page 3.)

- **An update on nonfinancial corporate credit and leveraged lending presented at the May 30, 2019, FSOC meeting** (https://home.treasury.gov/system/files/261/May302019_readout.pdf). Craig Phillips, then Counselor to the Treasury Secretary, described recent market developments and highlighted the ongoing collaboration among financial regulators on this topic.
- **FSOC Annual Reports (from 2011 to 2018).** Each report has discussed leveraged lending, especially related to reaching for yield in low interest-rate environments.
 - *2018 Annual Report* (available at <https://home.treasury.gov/system/files/261/FSOC2018AnnualReport.pdf>) discusses leveraged lending in Section 4.3 (Corporate Credit) and Section 4.13.5 (Alternative Funds). In addition, FSOC discussed the *2018 Annual Report*, including leverage issues, at its December 19, 2018, meeting (https://home.treasury.gov/system/files/261/December192018_minutes.pdf).
 - *2017 Annual Report* (available at https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/FSOC_2017Annual_Report.pdf) discusses leveraged lending in Section 4.3 (Corporate Credit), Section 4.13.5 (Alternative Funds), and Section 4.11 (Bank Holding Companies and Depository Institutions).
 - *2016 Annual Report* (available at <https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/FSOC%202016%20Annual%20Report.pdf>) again noted that the 2015 Shared National Credit (SNC) review indicated liberal underwriting standards in leveraged lending. (See page 34.)
 - *2015 Annual Report* (available at <https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/2015%20FSOC%20Annual%20Report.pdf>) reported that FSOC had considered issues related to leveraged lending, finding that it warranted continued monitoring as the 2014 SNC review found serious deficiencies in underwriting standards and risk management practices. (See pages 3 and 10.)
 - *2014 Annual Report* (available at <https://www.treasury.gov/initiatives/fsoc/studies-reports/Pages/2014-Annual-Report.aspx>) stated that a sharp increase in interest rates could increase the risk of default of leveraged loans. In addition, a focused review of leveraged loans during the SNC review for 2013 found material widespread weaknesses in underwriting practices, including excessive leverage, inability to amortize debt over a reasonable period, and lack of meaningful financial covenants. (See page 40.) The report noted that

the trend in weak underwriting “heightened the agencies’ concern, and [the] agencies reiterated that they expect financial institutions to properly evaluate and monitor underwritten risk in leveraged loans, and ensure borrowers have sustainable capital structures.”

- *2013 Annual Report* (available at <https://www.treasury.gov/initiatives/fsoc/Documents/FSOC%202013%20Annual%20Report.pdf>) discussed that continued yield-seeking was increasing leveraged lending, but noted that on March 21, 2013, the banking agencies adopted, after notice and comment, updated guidance for leveraged lending by the banking agencies’ supervised entities. (See page 114.)
- *2012 Annual Report* (available at <https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/2012%20Annual%20Report.pdf>) recommended continued monitoring and discussed the banking agencies’ issuance of proposed leveraged lending guidance for public comment.
- *2011 Annual Report* (available at <https://www.treasury.gov/initiatives/fsoc/Documents/FSOCAR2011.pdf>) noted that loosened underwriting standards may have led to heightened risks in leveraged loans. (See pages 12 and 105 (Section 5.4.3—Loans).)
- **Shared National Credit (SNC) Program Review Report.** The *SNC Program Review Report* is issued jointly by FRB, FDIC, and OCC each year, and discusses the results of the SNC program, which is an interagency review and assessment of risk in the largest and most complex credits shared by multiple regulated financial institutions. The SNC Program is governed by an interagency agreement among the FRB, FDIC, and OCC. Leveraged lending currently represents a significant portion of the credits reviewed through the SNC Program.
 - The *2018 SNC Program Review Report* is available at <https://www.fdic.gov/news/news/press/2019/pr19004.html>.
 - The *2017 SNC Program Review Report* is available at <https://www.fdic.gov/news/news/press/2017/pr17058.html>.
 - Until 2016, the SNC Review was performed annually; currently, the agencies conduct SNC reviews in the first and third calendar quarters with some banks receiving two reviews and others receiving a single review each year. The agencies issue a single statement annually that includes combined findings from the previous 12 months.
- **Treasury’s “Study of the Effects of Size and Complexity of Financial Institutions on Capital Market Efficiency and Economic Growth (March 2016)”** (available at <https://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/Final%20Section%20123%20Report%20March%2025%202016.pdf>.) Although not specifically about leveraged lending, this study contains a general discussion of the effects of leverage. The study was issued pursuant to Section 123 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and updates the previous study issued in 2011.

One of FSOC's statutorily established duties is to monitor the financial services marketplace.⁶ To do so, FSOC has established a committee structure, with committee members drawn from its member agencies.⁷ Several of its committees are particularly relevant to monitoring risk issues, including risks relating to leveraged lending, such as the FSOC Deputies Committee and the Systemic Risk Committee. The purpose of the Systemic Risk Committee is to support the FSOC in identifying risks to, and in responding to emerging threats to, the stability of the U.S. financial system, including by monitoring and analyzing financial markets, the financial system and issues related to financial stability, such as issues like leveraged lending.⁸ That Committee takes direction from and reports to the Deputies Committee which also considers such matters. The work of the FSOC and all of its committees is reflected in the FSOC's Annual Report.

The FDIC has also participated in a recent meeting of the President's Working Group on Financial Markets that discussed Corporate Debt and Leveraged Loans. The meeting participants discussed leveraged lending and corporate debt markets from the differing perspectives of each Federal financial regulatory agency. As an outcome of that meeting, the FDIC is participating in a supervisory initiative along with the FRB and OCC to review current leverage lending exposures both inside and outside the financial services industry.

Individually, the FDIC examines the risk presented to regulated institutions from their various credit activities, including leveraged lending. In this regard, the FDIC ensures that banks are conducting the activity in a safe and sound manner and in accordance with applicable laws and regulations, including Appendix A to Section 364 of the FDIC Rules and Regulations, Standards for Safety and Soundness (Interagency Safety and Soundness Standards).⁹

If the FDIC determines there are deficiencies in internal controls, risk assessments, or loan underwriting, documentation, administration, or monitoring at an institution, it will take appropriate action. Depending on the severity of the deficiency, the action may range from supervisory recommendations in an examination report, to informal or formal enforcement action. Informal enforcement actions are not publicly posted and might include a Memorandum of Understanding with the institution. Formal enforcement

⁶ See 12 U.S.C. § 5322(a)(2)(C)(2019).

⁷ See Financial Stability Oversight Council Bylaws, *Rules of Organization of the Financial Stability Oversight Council* § XXX.7 (adopted October 1, 2010; amended and restated on April 24, 2018), available at <https://home.treasury.gov/system/files/261/The%20Council%26%203039%3Bs%20Bylaws.pdf>.

⁸ See Financial Stability Oversight Council, *Charter of the Systemic Risk Committee of the Financial Stability Oversight Council*, available at <https://www.treasury.gov/initiatives/fsoc/governance-documents/Documents/The%20Council%27s%20Committee%20Charters.pdf>.

⁹ 12 C.F.R. § 364.100, *et seq.* (2019), available at https://www.ecfr.gov/cgi-bin/text-idx?SID=ee7d5a8a43c57d350f4e9f6dd4febb41&mc=true&node=ap12.6.364_1101.a&rgn=div9.

actions are publicly posted and can include: requiring a corrective plan under Section 39 of the Federal Deposit Insurance Act, cease-and-desist orders, civil money penalties, and other actions.

Leveraged lending guidance

Q.3. Vice Chair Quarles said during the hearing that your agencies are concerned about the right regulatory response to developments in underwriting of leveraged loans, and have identified underwriting practices that need to improve. How have you clarified to banks agency expectations for safe and sound underwriting practices if the 2013 leveraged lending guidance that describes expectations for the sound risk management of leveraged lending activities no longer has any legal effect? What are your current expectations?

A.3. Due to its nature as guidance, the Interagency Guidance on Leveraged Lending¹⁰ never had any legal effect nor was it viewed by the FDIC to be legally enforceable. As stated in the guidance: “This guidance outlines for agency-supervised institutions high-level principles related to safe-and-sound leveraged lending activities.”

The FDIC examines the risk presented to regulated institutions from their various credit activities, including leveraged lending. In this regard, the FDIC ensures that banks are conducting the activity in a safe and sound manner and in accordance with applicable laws and regulations, including Appendix A to Section 364 of FDIC Rules and Regulations, Standards for Safety and Soundness (Interagency Safety and Soundness Standards).¹¹

Among other requirements set forth in the Interagency Safety and Soundness Standards that are applicable to credit activities, including leveraged lending, insured depository institutions (IDIs) must:

- Have appropriate internal controls;
- Have effective risk assessment;
- Have loan documentation practices that ensure the loan is legally enforceable and that assess the ability of the borrower to repay the indebtedness in a timely manner;
- Demonstrate appropriate administration and monitoring of a loan;
- Establish and maintain prudent credit underwriting practices, including the borrower’s overall financial condition and resources, the financial responsibility of any guarantor, the nature and value of any underlying collateral, and the borrower’s character and willingness to repay as agreed; and
- Establish and maintain a system to identify problem assets and prevent deterioration in those assets, with independent, ongoing credit review and appropriate communication to management and to the board of directors.

¹⁰ Available at <https://www.fdic.gov/news/news/press/2013/FR-LL-Preamble-and-Guidance.pdf>.

¹¹ 12 C.F.R. Part 364.100, *et seq.* (2019), available at https://www.ecfr.gov/cgi-bin/text-id?SID=ee7d5a8a43c57d350f4e9f6dd4febb41&mc=true&node=ap12.6.364_1101.a&rgn=div9.

If the FDIC determines there are deficiencies in internal controls, risk assessment, or loan underwriting, documentation, or monitoring at an institution, it will take appropriate action. Depending on the severity of the deficiency, the action may range from supervisory recommendations in an examination report, to informal or formal enforcement action. Informal enforcement actions may include a Memorandum of Understanding with the institution. Formal enforcement actions may include requiring a corrective plan under Section 39 of the Federal Deposit Insurance Act, cease-and-desist orders, civil money penalties, and other actions. Individual credits may also be criticized or adversely classified. Please refer to the 2017 and 2018 Shared National Credit Review Reports:

- The *2018 SNC Program Review Report* available at <https://www.fdic.gov/news/news/press/2019/pr19004.html>.
- The *2017 SNC Program Review Report* available at <https://www.fdic.gov/news/news/press/2017/pr17058.html>.

BB&T/SunTrust/Stress Tests

Q.4. Suspending stress testing for SunTrust and BB&T means that regulators will not have 2019 stress-test results prior to their planned merger to become a \$442 billion bank at the end of 2019. Your agencies have indicated that you will continue to review the capital planning and risk-management practices of these institutions through the regular supervisory process. Please explain what aspects of the current supervisory process are sufficient replacements for stress testing to ensure that these types of large institutions could withstand an adverse economic shock.

A.4. The FDIC granted temporary relief to BB&T to submit their stress test to the FDIC for 2019. BB&T elected to conduct a stress test at both the bank and bank holding company for internal risk management purposes. The bank applied two idiosyncratic scenarios and also included the 2019 Supervisory Severely Adverse scenario in its stress test. While the bank was not required to submit a stress test, it prepared the test and FDIC staff reviewed the results. In addition, the FDIC supervisory process includes onsite assessment and offsite monitoring of each institution's risk profile. The FDIC's dedicated team reviewed the process and results of the stress test as part of the supervisory program.

Part 364 of the FDIC Rules and Regulations establishes inter-agency guidelines for safety and soundness standards, including internal controls and information systems that are appropriate to the size of the institution and the nature, scope, and risk of its activities. These controls and systems should provide for, among other things, effective risk assessment and procedures to safeguard and manage assets. Understanding how an institution's balance sheet will respond to adverse economic scenarios is an important risk management function, and, as part of the supervisory program at BB&T, the FDIC reviews and assesses the adequacy of internal bank risk management processes.

For merger transactions, Section 18(c) of the Federal Deposit Insurance Act requires that the FDIC consider the financial and managerial resources and future prospects of the existing and pro-

posed institution. Capital planning practices, including stress tests, are evaluated in the consideration of merger transactions.

Additionally, as part of the ongoing review of the pending application under the Bank Merger Act, the FDIC has been seeking further information and clarification on a number of matters from BB&T and SunTrust. Through this process, the FDIC has requested additional information on a variety of matters, including but not limited to, risk management, capital planning, stress testing, resolution planning, and legal entity structures. Similar additional information requests have been sent by the FRB as well, and responses to those requests have been shared between the agencies and will be taken into consideration during the application process.

Appraisals

Q.5. In December 2018, the OCC, the Federal Reserve, and the FDIC jointly proposed to increase their agencies' appraisal threshold on residential mortgage loans from \$250,000 to \$400,000.¹² Lenders would instead be required to obtain an evaluation for any mortgage loan below \$400,000 not otherwise subject to requirements by the mortgage insurer or guarantor or the secondary market.¹³

This proposal comes less than 2 years after the OCC, the Federal Reserve, the FDIC, and the CFPB rejected an increase in the residential loan appraisal threshold based on "considerations of safety and soundness and consumer protection" in their Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) report.¹⁴ This proposal also goes far beyond legislation enacted by Congress to provide appraisal exemptions in rural areas.

As you know, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, requires the Federal banking regulators charged with setting appraisal exemption thresholds to receive concurrence from the CFPB to ensure that "such threshold level provides reasonable protection for consumers" before any amendment.¹⁵

Q.5.a. Did the Federal banking agencies confer with staff or leadership at the CFPB or seek CFPB's concurrence before issuing the proposal to increase the appraisal exemption threshold? If not, at what point in the regulatory process do Federal banking agencies seek concurrence with the CFPB on appraisal threshold changes?

A.5.a. Yes. The Federal banking agencies initiated and engaged in ongoing consultations with Consumer Financial Protection Bureau (CFPB) staff throughout the development of the proposal to raise the residential appraisal threshold and have continued to do so while working to finalize the rule. Additionally, the acting CFPB Director at the time, Mick Mulvaney, voted to approve the proposal in his capacity as FDIC Board member in December 2018. The

¹²"Real Estate Appraisals," 83 FR 63110, December 7, 2018, available at <https://www.federalregister.gov/documents/2018/12/07/2018-26507/real-estate-appraisals>.

¹³*Ibid.*

¹⁴Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act, Federal Financial Institutions Examination Council, March 2017, pg. 36, available at https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.

¹⁵12 U.S.C. 3341(b).

agencies will seek CFPB concurrence prior to finalizing any rule to increase the residential appraisal threshold.

Q.5.b. In the background for the proposed rule, the Federal banking agencies stated they did not increase the residential real estate appraisal exemption threshold during the EGRPRA process because the change would have a “limited impact on burden reduction due to appraisals still being required for the vast majority of these transactions pursuant to the rules of other Federal Government agencies and the GSEs; safety and soundness concerns; and consumer protection concerns.”¹⁶ Is your agency aware of any changes in the real estate market or in appraisal or evaluation services that would affect its safety and soundness or consumer protection concerns, cited in the EGRPRA report, with increasing the residential mortgage appraisal threshold above \$250,000? If so, please detail these changes.

A.5.b. Following the completion of the regulatory review process required by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) in early 2017,¹⁷ the agencies issued a final rule to raise the commercial appraisal threshold.¹⁸ In the proposal, the agencies asked for information and views about the residential threshold.¹⁹ The proposal to raise the residential threshold was not based upon specific changes in the real estate market or appraisal or evaluation services that would affect safety and soundness or consumer protection concerns since the EGRPRA report was issued. Rather, it was based on comments received on the commercial threshold proposal; additional feedback received from financial institutions and State-bank regulatory agencies stating that increasing the residential appraisal threshold, which has not been raised in 25 years, would provide meaningful burden relief; and analysis regarding safety and soundness and consumer protection factors related to the proposal.²⁰ The FDIC is currently considering comments received.

Receivership activities

Q.6. Despite readiness efforts that took place pre-crisis, the FDIC was not fully prepared for the scale and scope of the 2007–2008 financial crisis. The agency was understaffed and had to divert already scarce resources from resolution activities to establishing offices, contracts, and IT systems.

The FDIC’s 2019 Budget cuts receivership funding by 22 percent from 2018. If another crisis occurs, is the FDIC prepared to resolve failed banks? Do you have plans in place if there is an increase in bank failures? What are those plans? Where does the FDIC plan

¹⁶ “Real Estate Appraisals,” 83 FR 63110, December 7, 2018.

¹⁷ See FFIEC, Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act (March 2017), available at https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint_Report_to_Congress.pdf.

¹⁸ See OCC, FRB, and FDIC Final Rule: Real Estate Appraisals, 83 Fed. Reg. 15019 (finalized April 9, 2018) (to be codified at 12 C.F.R. Part 323), available at <https://www.govinfo.gov/content/pkg/FR-2018-04-09/pdf/2018-06960.pdf>.

¹⁹ See OCC, FRB, and FDIC Proposed Rule: Real Estate Appraisals, 82 Fed. Reg. 35478 (proposed July 31, 2017) (to be codified at 12 C.F.R. Part 323), available at <https://www.govinfo.gov/content/pkg/FR-2017-07-31/pdf/2017-15748.pdf>.

²⁰ See OCC, FRB, and FDIC Proposed Rule: Real Estate Appraisals, 83 Fed. Reg. 63110 (proposed December 7, 2018) (to be codified at 12 C.F.R. Part 323), available at <https://www.govinfo.gov/content/pkg/FR-2018-12-07/pdf/2018-26507.pdf>.

to find the staff to resolve banks if necessary? Does the FDIC have standing agreements with contractors that could be invoked quickly in the case of a crisis?

A.6. As an initial consideration, it is important to emphasize that a reduction in the receivership portion of the FDIC's 2019 annual budget in no way reflects a lack of commitment on the part of FDIC management to ensure readiness for future failure activity. The budget receivership funding reduction in 2019 resulted largely from the FDIC's projection that it would be spending much less on current failure activity due to the financial strength of the banking industry. No banks failed in 2018 or through the first 4 months of 2019. Additionally, the FDIC has successfully reduced the pool of residual assets and trailing liabilities from bank failures that occurred prior to 2018, which has reduced the need for resources to manage that activity. Both of these factors contributed to the need for less money in the 2019 receivership portion of the budget.

Nonetheless, the FDIC remains actively engaged in a wide range of activities to ensure readiness for the next banking crisis. These activities are rooted in the lessons learned from past crises, while recognizing the importance of being flexible, since the characteristics of any future crises maybe much different from those of the past.

The FDIC's ability to quickly obtain critical resources and skillsets is the first line of defense to ensure a strong response and to maintain financial stability. The FDIC uses both temporary Federal staff and contractor resources to meet these demands. Surge Staffing Plans have been developed to outline the responsibilities and procedures that many parts of the FDIC will need to engage into successfully obtain these temporary staffing and contractor resources. To date, two facilitated table top discussions have taken place to review these plans, and a simulation exercise is planned for later this year, which will provide another opportunity to identify areas for further refinement, such as the identification of priority functional areas where resources will be needed; steps to expedite the hiring, security clearance, and onboarding processes; and delivery of just-in-time training. In addition to temporary Federal staff, the FDIC maintains a robust alumni network that enables the agency to quickly tap a qualified pool of FDIC retirees and former temporary employees who can be placed into duty quickly with minimal refresher training. The use of retirees proved very effective during the last crisis.

The FDIC has also significantly improved access to contracting resources in support of an increase in resolution activity. Currently, there are 81 active contracts in place, 62 of which are Basic Ordering Agreements with multiple vendors to allow for rapid scalability. These contracts cover a vast array of functions, including pre-closing and closing functions, such as the Receivership Assistance and Call Center, receivership activities for marketing and management of failed bank assets, and other technical support and data collection/processing services. In the event of large bank resolution activity, additional contracts are in place covering functions such as executive search services, claims financial advisors, crisis communications, and complex accounting. These additional service

contracts will greatly enhance the FDIC's ability to execute the resolution of a large, complex financial institution.

To further promote readiness among our current permanent staff, we sponsor multiple job rotations and developmental details to enhance the skills of our employees through cross-training. Training and developmental opportunities were also provided to employees interested in career advancement and movement into management positions, in order to ensure successful future succession planning. In addition, the FDIC continues to improve and modernize critical information technology systems, which are crucial to the resolution process.

IDI Resolution Plans

Q.7. The FDIC recently issued an Advance Notice of Proposed Rulemaking (ANPR) to consider reducing requirements and decreasing the frequency and content of insured depository institution (IDI) resolution plan submissions. The ANPR also includes a proposal to raise the \$50 billion applicability threshold. Even though S. 2155 did not require this change, the ANPR cites the increased minimum asset threshold for resolution planning requirements under section 165(d) of the Dodd-Frank Act from \$50 billion to \$250 billion as the reason for the IDI rule's asset threshold to be revisited. The ANPR acknowledges that the FDIC's sole experience resolving a failed institution over the current \$50 billion asset threshold was Washington Mutual Bank.

Q.7.a. What was the total asset size of Washington Mutual Bank at failure and how much did its resolution cost the Deposit Insurance Fund? On what other bank failure data does the FDIC rely in proposing this increase to the asset threshold for IDI plans?

A.7.a. At the time of its failure, Washington Mutual Bank reported \$299 billion in assets. It presented no loss to the Deposit Insurance Fund (DIF).

The Advance Notice of Proposed Rulemaking (ANPR) you reference does not propose an increased asset threshold for requiring IDI plans, but rather solicits public comment on a number of issues, including the appropriateness of a \$50 billion threshold.²¹ The FDIC's openness to considering a higher threshold is based on our experience across several initiatives.

First, while the FDIC's recent experience administering resolutions greater than \$50 billion is limited to Washington Mutual, the FDIC has also prepared to resolve some larger institutions that ultimately did not fail. These near-failure preparations typically do not provide the full experience that a resolution does, but valuable insights can be gleaned.

Second, the FDIC has devoted significant resources across several years to being better prepared to administer the failed bank claims administration processes for both qualified financial contracts and deposits. These are some of the most challenging functions that need to occur as part of a successful resolution. These initiatives have been conducted outside of the resolution plan re-

²¹ See FDIC Advance Notice of Proposed Rulemaking, Resolution Plans Required for Insured Depository Institutions with \$50 Billion or More in Total Assets, 84 Fed. Reg. 16620 (proposed Apr 12, 2019) (to be codified at 12 C.F.R. Part 360) available at <https://www.govinfo.gov/conttent/pkg/FR-2019-04-22/pdf/2019-08077.pdf>.

view process using programs established under Parts 370 and 371, and section 360.9 of the FDIC's Rules and Regulations. These programs are being used to develop essential large resolution capabilities that were not in place during the financial crisis and provide valuable insights on the institution-specific challenges that large resolutions present.

Finally, the FDIC's experience with administering both the Federal Deposit Insurance Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act resolution plan review processes over several years has made it evident that certain aspects of the IDI plan review process could be streamlined or improved, while maintaining or potentially improving the value derived by the FDIC from this work. In keeping with the spirit of the Administrative Procedure Act rulemaking process, the FDIC thought it would be appropriate to solicit feedback on these concepts through an ANPR.

Q.7.b. The FDIC also indefinitely suspended the deadlines for IDIs to submit their next resolution plans, which would have been due on or before July 1, 2020, until amendments to the IDI Rule are finalized. Will you commit to reinstituting IDI resolution plan submissions if a proposal is not finalized by July 1, 2020?

A.7.b. The FDIC is revising the IDI Rule in order to appropriately tailor its approach to the risk presented by individual IDIs. The FDIC is committed to a process that offers ample opportunity for public input as it recognizes that greater transparency and participation in the rulemaking process benefit the public and aid Congressional oversight.

The FDIC remains committed to a robust planning process for the resolution of the largest IDIs and believes that input from those institutions is essential. The FDIC Board, in approving the ANPR, voted to delay the next resolution plan submissions until the rulemaking process is completed. Public comments on the ANPR were due by June 21, 2019.²² The FDIC is committed to revising the IDI rule in a timely manner and will make every effort to complete the process and issue a revised rule promptly.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM JELENA McWILLIAMS

Q.1. My home State of New Jersey is moving toward legalization of recreational marijuana, and I have concerns that these new businesses as well as the existing medical marijuana businesses in the State will continue to find themselves shut out of the banking system. And when these businesses are forced to operate exclusively in cash, they create serious public safety risks in our communities.

Comptroller Otting and Chair Powell have previously expressed support for legislative clarity on the marijuana banking issue, and I would like to understand Chair McWilliams, Vice Chair Quarles, and Chair Hood's position as well.

Do you agree that financial institutions need legislative clarity on this issue?

A.1. I defer to Congress on whether additional legislative clarity is needed to address this issue. As part of my commitment to travel

²² *Ibid.*

to every State to meet with bankers, their customers and State regulators, I have repeatedly heard concerns from bankers over the uncertainty in providing banking services to marijuana-related businesses in addition to other businesses that provide services to those marijuana-related businesses. The Financial Crimes Enforcement Network (FinCEN) issued guidance in 2014 to address the Bank Secrecy Act obligations when serving these customers. While financial institutions say they understand FinCEN's guidance, the guidance addresses BSA obligations, and does not address uncertainties related to law enforcement.

Q.2. I am also concerned that legal marijuana businesses will continue to find themselves unable to access insurance products, a necessity for those looking to secure financing.

Would it be helpful for Congress to consider the role of insurance companies as States move toward legalization?

A.2. I defer to Congress on how best to address risks attendant to other businesses that indirectly serve marijuana-related businesses, like insurance companies and others.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR ROUNDS FROM JELENA McWILLIAMS

Q.1. In my State of South Dakota, farmers, ranchers, energy producers, and others use derivatives to manage risks and fluctuating commodity prices. It is critical for these producers to have access to markets and products that are as competitive and cost-effective as possible. Not only does this benefit agriculture and energy producers, it also benefits American consumers across the country who depend on stable prices as they go about their daily lives.

Recently, the CFTC Commissioners submitted the attached joint comment letter in response to the SA-CCR proposed rulemaking, and I share in the concerns raised by these regulators who noted that, in its current form, the supplementary leverage ratios (SLR) "is working counterproductively, limiting access to derivatives risk management strategies and discouraging the central clearing of standardized swap products."

The current SLR calculation fails to acknowledge the risk-reducing impact of client initial margin in its calculation, resulting in an inflated measure of the clearing member's exposure for a cleared trade.

The SA-CCR rulemaking provides an important opportunity to address these concerns, and to work with your fellow regulators who directly monitor and regulate the derivatives markets.

Q.1.a. Have you reviewed the attached joint comment letter from the CFTC Commissioners?

A.1.a. Yes.

Q.1.b. Have you had any direct conversations with the CFTC Commissioners about this matter and the concerns they raised?

A.1.b. I have discussed this issue with then Chairman Giancarlo and understand the importance of central clearing to the stability of the derivatives market overseen by the CFTC. I also understand their concerns regarding the impact that the SLR could have on central clearing.

Q.1.c. Will you commit to continuing to work with your fellow regulators to address the concerns they have raised about the SLR moving forward?

A.1.c. Yes. The FDIC is working with the banking regulators and will take these concerns into account as we move forward with the SA-CCR proposal.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR PERDUE
FROM JELENA McWILLIAMS**

Supplemental Leverage Ratio

Q.1. Chairwoman McWilliams, in February, the CFTC Commissioners—both Republican and Democratic Commissioners I should note—submitted a unified comment letter to the Fed, FDIC and OCC raising concerns about a proposed rulemaking related to bank capital rules associated with derivatives transactions.

These concerns surround the calculation of the supplementary leverage ratio (or SLR). Currently, the SLR fails to recognize the risk reducing nature of segregated client margin in these transactions. Studies referenced in the comment letter note that this has led to rising costs and less competition in the derivatives markets for commodity producers seeking to hedge risks in the markets.

Q.1.a. Are you aware of this joint comment letter from the CFTC commissioners—the market regulators who directly oversee these markets?

A.1.a. Yes.

Q.1.b. Has your staff briefed you on these concerns?

A.1.b. Yes.

Q.1.c. Have you had discussions with the Commissioners personally about this topic?

A.1.c. Yes. I have discussed this issue with then Chairman Giancarlo and understand the importance of central clearing to the stability of the derivatives market overseen by the CFTC. I also understand their concerns regarding the impact the Supplemental Leverage Ratio (SLR) could have on central clearing.

The FDIC is working with the banking regulators and will take these concerns into account as we move forward with the Standardized Approach for Counterparty Credit Risk (SA-CCR) proposal.

Brokered Deposits

Q.2. Chairwoman McWilliams, as you know, the current statutory framework around deposits labeled as brokered deposits was created in 1989 and the regulation in 1991. While some additional guidance has been published since then, I think you would agree the rules in this area fail to adequately consider modern banking—things like online banks, fintech bank subsidiaries, and overnight sweep accounts. We applaud you on the recent request for public input on how these regulations should be updated.

Q.2.a. I would like to know your timeline for considering those comments and putting out a proposal?

A.2.a. As you mention, the financial services industry has seen significant changes since the statutory restrictions on brokered deposits were put into place. As a result, the FDIC is undertaking a comprehensive review of our approach to brokered deposits and the interest rate caps applicable to banks that are less than well capitalized. On December 18, 2018, the FDIC Board approved an ANPR inviting comment on all aspects of the FDIC's brokered deposit and interest rate regulations (12 C.F.R. § 337.6).¹ The ANPR was published in the Federal Register on February 6, 2019, with comments accepted for 90 days (until May 7, 2019).² The FDIC received more than 100 comments, which are currently being reviewed and will be carefully considered in determining next steps.

In particular, commenters expressed urgency concerning the current methodology for calculating the national rate cap applicable to less-than-well-capitalized banks. Given the urgency surrounding this issue, the FDIC is expediting that component of our review with the goal of issuing a proposal addressing this issue for comment and a final rule by the end of the year. For issues relating to brokered deposits generally, we are currently reviewing comments with a goal of issuing a proposal for comment by the end of the year.

Q.2.b. Additionally, this Committee has demonstrated in the past a strong bipartisan interest in modernizing aspects of the brokered deposit law. Would you be willing to work with the Committee to look at what statutory changes might be necessary and helpful as we look to move a bill this year?

A.2.b. Yes. While the FDIC intends to consider changes to its brokered deposit regulation through the notice-and-comment rulemaking process, we recognize that certain areas must be addressed through legislation. The FDIC would be happy to work with the Committee to consider appropriate changes to modernize the brokered deposit law, including the interest rate restrictions.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TILLIS FROM JELENA McWILLIAMS

Q.1. Your agencies regulatory approach to inter-affiliate margin transactions is an outlier. The margin requirements have the effect of locking up capital that could otherwise be used for economic growth and they discourage centralized risk management practices among firms. In addition, the current approach results in the movement of collateral out of the U.S.-insured depository institutions. These are all suboptimal policy outcomes. Regulatory authorities in the European Union, Japan, and most other G20 jurisdictions each currently provide such an exemption for these transactions. You have indicated you are aware of the issue but, to date, I've seen no official action from your agencies to fix the problem.

¹ See FDIC Financial Institution Letter: Reciprocal Deposit Rulemaking and Request for Comments on Brokered Deposit and Interest Rate Restriction Issues, FIL-87-2018 (December 19, 2018), available at <https://www.fdic.gov/news/news/financial/2018/fil8087.pdf>.

² See FDIC Advance Notice of Proposed Rulemaking and Request for Comment: Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions, 84 Fed. Reg. 2366 (proposed February 6, 2019) (to be codified at 12 C.F.R. Part 337), available at <https://www.fdic.gov/news/board/2018/2018-12-18-notice-sum-i-fr.pdf>.

The recognition for the need for an exemption began under regulators nominated by President Obama. In 2013, CFTC Chairman Gary Gensler provided an exemption for central clearing and trade execution. In 2015, CFTC Chairman Tim Massad provided an exemption, determining that initial margin was not warranted and it was a “very costly and not very effective way” to enhance risk management. Yet, your agencies did not provide an exemption from initial margin in the 2016 margin rules, and as a result, as of the end of last year, U.S. banking entities collected nearly \$50 billion in initial margin from their own affiliates. In 2017, the Treasury Department noted that this rule puts U.S. firms at a disadvantage both domestically and internationally, recommending that your agencies provide an exemption consistent with the margin requirements of the CFTC.

Q.1.a. Do you agree that an exemption from initial margin is appropriate for inter-affiliate transactions?

A.1.a. I recognize the concerns with initial margin requirements for inter-affiliate transactions and am committed to addressing them. The agencies are actively working on addressing such concerns.

Q.1.b. Will you prioritize a rule to provide an exemption for inter-affiliate transactions, separate from any broader regulatory effort such as a Regulation W rewrite?

A.1.b. I recognize that inter-affiliate margin is a significant concern and I am committed to working with my fellow regulators to address the issues you have raised.

Q.1.c. Please provide an explicit timeline for when your agencies will take action.

A.1.c. The agencies have been actively discussing inter-affiliate margin requirements and expect to seek comment on this issue in the near term. Addressing the issue is a priority for the FDIC.

Q.2. The reason a “Reg W” rewrite is suboptimal is that it will be counter-productive and slow. This capital needs to be released soon because we have geopolitical risk emerging over the world that could destabilize markets. If we have a Brexit, the number of entities will double and more capital will be unfairly sequestered. With potential trade volatility, Middle East uncertainty, and other risks, our banks need to be able to use capital for risk management, not have it trapped for no reason.

The Current Expected Credit Loss (CECL) accounting standard poses significant compliance and operational challenges for banks.

Q.2.a. Roughly how many of institutions that your agency supervises will be subject to the new CECL accounting standard?

A.2.a. The Current Expected Credit Loss (CECL) accounting standard applies to all entities, including the 3,441 banks and savings associations supervised by the FDIC (as of May 28, 2019).

Q.2.b. What is the overall impact considering their nonbank and nonfinancial clients are also subject to the rule—considering the indirect impacts such as impairment of trade receivables pledged as loan collateral for a medium-sized business?

A.2.b. It is very difficult to determine the overall impact the CECL accounting standard will have on banks’ nonbank and nonfinancial

clients that will be subject to this accounting standard. The impact on these clients will depend on a variety of factors, such as the extent of the clients' holdings of assets and off-balance-sheet credit exposures within the scope of CECL and the characteristics of these items. Furthermore, the impact will also depend on what methodology an institution uses to estimate credit losses. However, we are committed to closely monitoring the direct and indirect impacts of CECL.

Q.2.c. There are many analyses publicly available related to the FASB's CECL proposal, but none have an approximation for the number of U.S. GAAP filers who will be affected and the overall macro impact—does your agency know the covered universe?

A.2.c. The CECL accounting standard applies to all entities and to specified items, including financial assets measured at amortized cost (*e.g.*, loans held for investment, held-to-maturity debt securities, trade receivables, reinsurance recoverables, and receivables that relate to repurchase agreements and securities lending agreements), a lessor's net investments in leases, and off-balance-sheet credit exposures not accounted for as insurance (*e.g.*, loan commitments, standby letters of credit, and financial guarantees that are not unconditionally cancelable by the issuer).

Therefore, the universe of entities that prepare financial statements in accordance with U.S. generally accepted accounting principles (GAAP) that would be affected by the CECL accounting standard includes all entities that hold assets or off-balance-sheet credit exposures that fall within the scope of the standard, as summarized above.

Q.2.d. Are you confident that the banks you supervise are ready to implement CECL smoothly, given the balance sheet and operational costs involved?

A.2.d. As I discussed at the hearing, CECL is one of the primary issues I hear about from community banks as I travel around the country. I understand implementation is a concern at many institutions, and the FDIC has been working with the industry on educational initiatives to help institutions understand and prepare for CECL. During examinations, our examiners discuss CECL implementation progress with institutions, taking into account the size and complexity of the institution being examined and the CECL effective date applicable to the institution. The majority of FDIC-supervised institutions have until 2022 to implement CECL, and the FDIC has communicated its expectation to supervised institutions that they undertake good faith efforts to implement the CECL accounting standard in a sound and reasonable manner. The FDIC will be monitoring the impact of CECL on institutions required to implement the standard prior to 2022 to better understand the impact CECL may have on community banks supervised by the FDIC that implement the standard in 2022.

Q.2.e. Other than allowing the banks to integrate CECL reserves into regulatory capital over 3 years, are your agencies doing anything to assess the impact of CECL on the availability of financing?

A.2.e. The FDIC is committed to monitoring the effects of the CECL accounting standard as it is implemented, including the

review of relevant data provided by institutions. We will respond, as appropriate, to any impact that CECL may have on institutions' lending practices.

Q.2.f. Would you agree that a FASB accounting change should not result in either an increase or decrease in the loss absorbency a bank holds against any given loan?

A.2.f. While the banking agencies do not exercise jurisdiction over accounting changes, the banking agencies do thoroughly analyze the effects of any change in U.S. GAAP. With respect to the implementation of CECL, the agencies have modified their capital rules to provide banks with a 3-year transition period to phase-in the impact CECL. During this period, the agencies will actively monitor banks' implementation of the new accounting standards and its impact on regulatory capital, and will continually evaluate whether any additional adjustments to the capital rules are appropriate.

**RESPONSE TO WRITTEN QUESTION OF SENATOR MORAN
FROM JELENA McWILLIAMS**

Q.1. S. 2155 requires your agencies to establish a community bank leverage ratio (CBLR), which Congress envisioned as a single, simple capital standard that would provide small financial institutions with regulatory relief. However, the CBLR you have proposed includes revisions to the Prompt Corrective Action (PCA) framework, which would effectively raise the PCA thresholds for community banks who choose to comply with the CBLR.

Given the negative regulatory consequences triggered when banks fall below the various PCA thresholds, I'm concerned your proposal will actually discourage community banks from ever opting into the CBLR framework. Are there changes to your CBLR proposal that would make it less burdensome and more attractive for small community banks?

A.1. The FDIC continues to have a goal of making the community bank leverage ratio (CBLR) as simple as possible, while ensuring that it is broadly available for community banking organizations. Since the agencies (*i.e.*, the FDIC, FRB, and OCC) issued the CBLR proposal, we received numerous comments and are carefully reviewing each of them. Specifically, we have received feedback on the CBLR levels proposed as proxies under the Prompt Corrective Action (PCA) framework when a community bank falls below the "well capitalized" PCA measure in the CBLR proposal. These PCA proxies were included in the proposal as an option for institutions that fall below the well capitalized PCA measure in the CBLR to allow them to continue to use the CBLR.

Reverting to Basel III-based capital calculations at a time when a small bank should be focused on addressing its declining capital levels could be resource-intensive during a narrow period of time and, therefore, counterproductive. The FDIC is considering how best to proceed in the CBLR final rule to address this concern, taking into account the feedback received on the proposed PCA proxies.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SCHATZ
FROM JELENA McWILLIAMS**

Q.1. When you assess a bank's risk management strategy, how do you assess the increased risk of more frequent and severe natural disasters and extreme weather events?

A.1. The FDIC expects financial institution management to be aware of and prepare for potential risks that could arise in their operating environment. These could include physical risks associated with extreme weather events, such as hurricanes, floods, storms, tornadoes, droughts, and fires. In this regard, the FDIC's longstanding practice is to assess institutions' efforts to mitigate the impact of extreme weather events relative to their ongoing operations and ability to provide financial services to their customers.

The FDIC has established expectations for financial institutions to develop, test, and implement appropriate business continuity plans to maintain operational capabilities during and after any event that leads to operational disruptions. These plans are assessed as part of the FDIC's bank examination process.

In addition, financial institutions obtain different types of insurance coverage, such as business interruption, wind, and flood insurance; to repair or replace damaged premises and equipment; or to mitigate potential losses if they are temporarily unable to operate. The management of FDIC-supervised institutions may also require some customers to maintain certain levels of disaster or flood insurance coverage. The FDIC examines a financial institution's compliance with the National Flood Insurance Act, which requires certain residential mortgage borrowers to maintain flood insurance.

Q.2. Are you confident that the banks that you supervise are adequately pricing the cost of those increasing risks from climate change?

A.2. The FDIC expects the management of FDIC-supervised financial institutions to mitigate the risks of adverse climate or weather-related events common to particular areas of the country. Such activities may include ensuring the financial institution and its borrowers have appropriate insurance coverage, adjusting borrowers' cash-flow estimates based on reduced agricultural yields or adverse business conditions, having customers obtain certain minimum levels of insurance coverage, and complying with rules, regulations, and building codes. Such activities ensure that financial institutions are adequately considering and pricing the cost of potential risks from climate change relative to their impact on operations.

Q.3. Do you know if the banks the FDIC supervises are relying on historical trends when they evaluate the risks from extreme weather events?

A.3. FDIC-supervised institutions typically do not rely on historical trends when they evaluate the risks from extreme weather events. Bank management generally strives to prepare for various "worst case" scenarios that could reasonably arise due to adverse weather-related events that are more common in the area of the United States in which they operate.

Q.4. Does the FDIC use or consider the data from the National Climate Assessment (NCA) as it conducts its supervisory work?

If yes, how? If no, why not?

A.4. The FDIC's supervisory processes assess how well the management of financial institutions is informed of and has implemented appropriate mitigation efforts for the unique climate change-related risks in their local area.

The NCA is a useful resource that FDIC staff and institution management may review when considering the physical risks of adverse weather-related events that could pose economic and financial risks common to a particular area of the United States.

Q.5. Do you think it would be useful to consider the NCA as a guide to the physical risks that could in turn pose economic and financial risks for the institutions that the FDIC supervises?

A.5. The NCA is a useful resource that FDIC staff and institution management can review when considering the physical risks of adverse weather-related events that could pose economic and financial risks common to a particular area of the United States. Many of the concerns raised in the NCA are addressed, as a practical matter, in the FDIC's Guidelines for an Environmental Risk Program.¹

Q.6. Have you attempted to quantify the financial risks from changes in the climate itself—not just episodic severe weather shocks, but fundamental changes like high temperatures, drought, and sea-level rise?

If yes, how? If no, why not?

A.6. FDIC economists and financial analysts conduct analyses of a range of factors that affect economic and banking conditions, including the potential implications of changing environmental conditions.

Q.7. Do you think the financial institutions that the FDIC supervises face risks from changes in the climate itself?

A.7. While bankers managing FDIC-supervised financial institutions are generally accustomed to the risks associated with adverse weather-related events common in their market area, adverse weather-related events can have a pronounced negative economic impact, particularly in a local area. A continuation of severe weather conditions could result in greater risks to FDIC-supervised financial institutions from adverse weather-related events.

Q.8. Will you consider joining the NGFS? If yes, what is the timeline for making that decision? If no, why not?

A.8. The FDIC is not considering joining the NGFS, but will continue to monitor NGFS recommendations as they are developed. The FDIC expects supervised institutions to establish appropriate policies and procedures for the type of investment and financing activities in which they engage, and as mentioned above, to manage risks associated with adverse weather-related events.

Q.9. What can you commit to doing in the next 6 months to improve how you assess the financial risk of climate change?

¹FDIC Guidelines for an Environmental Risk Program, available at <https://www.fdic.gov/regulations/laws/rules/5000-4900.html>.

A.9. The FDIC will continue its longstanding risk-focused practice to assess financial institutions' efforts to mitigate the impact of extreme weather-related events that maybe prevalent in the geographical areas in which they are located to ensure they can recover their operational activities in a timely manner and continue to provide financial services to their customers.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ
MASTO FROM JELENA McWILLIAMS**

Q.1. How are you improving the culture and strengthening the compliance division at the financial institutions you regulate, to ensure that Suspicious Activities Reports are being filed, fake accounts are not created, and customers are treated fairly? Do problems with incentive pay practices that intent staff to engage in fraud or unfair practices still exist at the financial institutions you, regulate?

A.1. FDIC examinations include a careful evaluation of a bank's compliance with the Bank Secrecy Act (BSA) and implementing regulations, including a review of suspicious activity monitoring and reporting, account opening procedures, and customer due diligence. In terms, of evaluating account opening procedures and customer due diligence, we evaluate documents and information collected by banks, policies and procedures to validate customers' identities, and the methodologies used to establish customers' money laundering (and other illicit financial) risk profiles.

FDIC examinations also include a review of pay practices to evaluate whether incentive arrangements are consistent with safety and soundness and in accordance with applicable laws and regulations, including Appendix A to Section 364 of the FDIC Rules and Regulations, Standards for Safety and Soundness (Interagency Safety and Soundness Standards).¹

With respect to compensation, the Interagency Safety and Soundness Standards prohibit excessive compensation as an unsafe and unsound practice.² Compensation shall be considered excessive when amounts paid are unreasonable or disproportionate to the services performed by an executive officer, employee, director, or principal shareholder, considering the following:

- The combined value of all cash and noncash benefits provided to the individual;
- The compensation history of the individual and other individuals with comparable expertise at the institution;
- The financial condition of the institution;
- Comparable compensation practices at comparable institutions, based upon such factors as: asset size, geographic location, and the complexity of the loan portfolio or other assets;
- For post-employment benefits, the projected total cost and benefit to the institution;

¹ 12 C.F.R. Part 364.100, *et seq.* (2019), available at https://www.ecfr.gov/cgi-bin/textidx?SIDee7d5a8a43c57d350f4e9f6dd4febb41&mc=true&node=ap12.6.364__1101.a&rgn=div9.

² *Ibid* 6.

- Any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and
- Any other factors the agencies determine to be relevant.

Additionally, compensation that could lead to material financial loss to an institution is prohibited as an unsafe and unsound practice.

With respect to unauthorized accounts, beginning in 2016 and concluding in 2017, the FDIC conducted a comprehensive horizontal review of sales practices at 17 FDIC-supervised institutions with total assets greater than \$10 billion. This review was part of a collaborative effort among the FDIC, OCC, FRB, and CFPB. FDIC staff also participated in reviews of OCC-supervised institutions. The agencies met frequently during this process to ensure consistency in the supervisory approach and to share draft findings.

No systemic weaknesses were identified by FDIC supervisory staff in terms of opening accounts without customer consent. The FDIC issued supervisory letters to all FDIC-supervised institutions included in this review. These letters provided detail on institution-specific findings, supervisory recommendations, and horizontal conclusions across all institutions reviewed. Supervisory recommendations focused primarily on enhancing incentive compensation programs or risk management practices to help prevent sales practice weaknesses. Many of the institutions were in the process of conducting self-assessments and identifying similar findings. Examination staff have conducted follow-up work as necessary to assess each institution's remediation efforts and the principles outlined above continue to be embedded in the FDIC's examination processes.

Q.2. Will you ensure access to information from community reinvestment advocates through the Freedom of Information Act with timely responses and without requiring high fees?

A.2. The FDIC is committed to full compliance with the Freedom of Information Act (FOIA) and supports the FOIA's objective of ensuring an open and transparent Government. The FOIA is a Federal statute (5 U.S.C. Part 552) that affords any person the right to obtain Federal agency records unless the records (or a part of the records) are protected from disclosure by any of the nine exemptions contained in the law or by one of three special law enforcement record exclusions. The FDIC has issued Regulation 12 C.F.R. 309.5, implementing the FOIA, which includes provisions on the time to respond to a FOIA request and the payment of fees.

Q.3. There has been an epidemic of fake comments on controversial issues. How will you ensure that comments on rules and mergers are accurate and not based on stolen identities?

A.3. To date, the FDIC has not identified a circumstance in which comments received have been suspected of coming from individuals or entities using illegitimate identities. While the FDIC has not yet identified such problems, the agency remains cognizant of this issue and is aware that it has arisen at other agencies. Anomalies in comments, whether observed within a specific comment or across

a group of comments, would be subject to additional evaluation from which a determination is made regarding the disposition of the comment(s).

Q.4. Recently, the Office of Management and Budget released a memorandum reinterpreting the Congressional Review Act to include independent regulatory agencies, many of which are your agencies. What would be the impact of requiring OMB review of proposed rules and guidance on your agency?

A.4. The FDIC submits all final rules to OMB for major rule determinations, as required by the Congressional Review Act, and follows an established practice for complying with the Act's requirements. As part of that practice, the FDIC requests determinations from the Office of Information and Regulatory Affairs (OIRA) at OMB as to whether a final rule is "major" in accordance with the Act. Such a request is typically sent to OIRA shortly before the FDIC's Board of Directors considers the final rule, and includes the FDIC's view on whether it is a major rule. OMB Memorandum M-19-14, entitled "Guidance on Compliance with the Congressional Review Act," seeks to provide guidance on how such requests should be made in the future, clarifying timeframes and identifying useful features in agency analyses supporting recommended major rule determinations.³

Some final guidance documents may be considered rules for purposes of the Congressional Review Act. If an FDIC guidance document is a rule for Congressional Review Act purposes, the FDIC will seek a major rule determination from OIRA and submit the document to Congress pursuant to the statutory requirements. The Congressional Review Act applies only to final agency rules; the FDIC does not submit proposed rules or guidance to OIRA for major rule determinations or substantive review.

Q.5. The most recent National Climate Assessment said the U.S. Southwest could lose \$23 billion per year in region-wide wages as a result of extreme heat. Are you looking into how extreme heat will affect the economy of the Southwest, and how that will impact regional financial institutions?

A.5. FDIC economists and financial analysts conduct analyses of a range of factors that affect economic and banking conditions, including the potential implications of changing environmental conditions. Several FDIC Regional Risk Committees include environmental factors in their regular analysis. One of these factors is drought in the western States.

Senior management and boards of directors at FDIC-supervised financial institutions are generally familiar with the risks associated with adverse weather-related events common in the areas in which they operate, including those that are long-term or display a pattern. The FDIC's supervisory process assesses how well bank management is informed of and has implemented appropriate mitigation efforts for the unique risks facing the institution, including environmental risks in its market area.

³Executive Office of the President, Office of Management and Budget memorandum for the Heads of Executive Departments and Agencies, *Guidance on Compliance with the Congressional Review Act*, M-19-14 (April 11, 2019), available at <https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-14.pdf>.

Q.6. As you conduct your supervisory work, are you taking into account the evidence that extreme heat is going to get worse?

A.6. The FDIC expects the management of FDIC-supervised financial institutions to mitigate the risks of adverse climate or weather-related events. Such activities may include ensuring the financial institution and its borrowers have appropriate insurance coverage or adjusting borrowers' cash-flow estimates based on reduced agricultural yields or adverse business conditions.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA
FROM JELENA McWILLIAMS**

Q.1. In 2015, regulators created new collateral requirements for swaps made between affiliates of the same company, known as inter-affiliate margin requirements. These requirements are inconsistent with international regulators and have tied up \$40 billion in capital, putting U.S. banks at a competitive disadvantage and freezing up investment back into the economy. In the past, you've stated that resolving inter-affiliate margin requirements should be a priority.

Q.1.a. Is this still your view?

A.1.a. Yes. The FDIC is committed to continuing to work with the other bank regulators (*i.e.*, the FRB, OCC, Farm Credit Administration (FCA), and Federal Housing Finance Agency (FHFA)) to consider the most effective way to address inter-affiliate margin requirements in the most effective manner possible.

Q.1.b. Can you provide a timeline for when the issue will be addressed?

A.1.b. The agencies have been actively discussing inter-affiliate margin requirements and expect to seek comment on this issue in the near term. Addressing the issue is a priority for the FDIC.

Q.2. Cybersecurity is a chief concern for U.S. financial institutions and the agencies that regulate them. What is your assessment of the current examination process and regulatory landscape for regulated institutions with respect to cyber?

How can Federal agencies improve and help harmonize cybersecurity regulations?

A.2. The FDIC, as a member of the Financial and Banking Information Infrastructure Committee (FBIIC), is working to harmonize cybersecurity oversight. For example, the FBIIC is identifying how cybersecurity examinations could be better coordinated to reduce burden without reducing effectiveness, and the FDIC has been an active member of these discussions. Additionally, we have worked with other FBIIC agencies to create a shared lexicon of cyber terms that should be used consistently to reduce confusion. We have been using the National Institute of Standards and Technology (KIST) Cybersecurity Framework as the foundation for our cybersecurity harmonization efforts, which should further reduce burden and confusion.

Additionally, the FDIC has supported the industry's own efforts to harmonize and otherwise improve cybersecurity assessments. In 2018, the Financial Services Sector Coordinating Council published

a cybersecurity assessment that is sufficiently scalable and extensible to be useful to financial institutions of all types for internal and external cyber risk management.¹ This profile adds to the choices an institution has for assessing cybersecurity maturity, such as the Federal Financial Institutions Examination Council's (FFIEC's) Cybersecurity Assessment Tool, as well as assessments available from the private sector.

The FDIC does not mandate the use of any particular assessment and recognizes that entities of varying complexity benefit from the availability of a variety of assessments. However, there are benefits to using a standardized approach for identifying, assessing, and managing cybersecurity risk, and the agencies continue to encourage institutions in this regard. For example, institutions that use a standardized approach can better track their progress through time, and compare their performance to peers that are using the same approach. Regulators can be more effective and efficient examining institutions when they are familiar with the standardized approach an institution is using.

Finally, the FDIC collaborates through the FFIEC to provide consistent examiner training and procedures across FFIEC agencies. We are currently improving booklets within the IT Examination Handbook and expect to release an update on business continuity management soon. The FFIEC provides a useful forum for harmonization and helps create a level playing field with regard to cybersecurity examination across bank charter types.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN FROM RODNEY E. HOOD

Meeting Schedule

Q.1. Please provide to the Committee a detailed list of all meetings with individuals or groups not directly affiliated with the agency you serve, from the date of your confirmation by the Senate to present.

A.1.:

¹ Available at <https://www.fsscc.org/Financial-Sector-Cybersecurity-Profile>.

Date	Event
April 8 th	Ron Busby, U.S. Black Chambers, Inc.
	Ramiro Cavazos, United States Hispanic Chamber
April 10 th	Meeting with CFPB Director, Kathy Kraninger
April 11 th	World Bank Spring Meeting – Multilateral Investment Guarantee Agency, Diversity Inclusion Panel
April 15 th	FHFA Director Mark Calabria
	Meeting with Acting SBA Administrator and Office of Capital Access at the SBA (Chris Pilkerton and Grayson Stribling).
April 17 th	The Next Phase for CFPB: A Keynote Address from CFPB Director Kathy Kraninger at the Bipartisan Policy Center
	Opportunity Zone Conference at the White House
April 18 th	Meeting with Mary Eshram (Operation Hope Global Forum in Atlanta) to discuss upcoming speaking engagement
	Meeting with Treasury Deputy Assistant Secretary Bimal Patel at the Treasury
April 23 rd	Comptroller Otting, OCC
	American Council for Germany - Philipp Steinberg (Director General for Economic Policy, German Federal Ministry for Economic Affairs and Energy)—speaking engagement
April 24 th	FDIC- Duke Financial Technology Conference, Economic Club of Washington, DC
April 30 th	MOU signing with the SBA at the NCUA
May 2 nd	Meeting with Congressman McHenry

	Project Uplift Reception in DC—speaking engagement
May 3 rd	FIRREA Leadership Council Quarterly—brief welcoming remarks
May 5 th	National Small Business Week 2019 Opening Dinner
May 6 th	Talent Pipeline Management National Learning Network Summit 2019—speaking engagement at the U.S. Chamber of Commerce
May 7 th	Domestic Finance Leadership at Treasury
May 8 th	NAFCU meeting
	Meeting with Dr. Ludy Green (USAID)
	Meeting with Joseph Lai, White House
May 9 th	Meeting with OCC Comptroller Otting
	Meeting with Congressman Frank Lucas
May 13 th	Testimony Discussion with the FDIC, OCC, and Fed at the OCC
May 14 th	Exchequer Club Pre-Meeting
May 15 th	Senate Hearing—Committee on Banking, Housing, and Urban Affairs “Oversight of Financial Regulators.”
	Meeting with Congresswoman Waters
May 16 th	House Hearing—Committee on Financial Services “Oversight of Prudential Regulators: Ensuring the Safe, Sound, and Accountable Conduct of Megabanks and Other Depository Institutions.”
May 20 th	Otoe Missouri FCU Chartering Ceremony, Red Rock, OK
May 22 nd	Meeting with Andrew Moss, OCC, Outreach and External Relations Program Manager—MDI
	Andrew Young Presents The Color of Money event at the OCC

Leveraged lending

Q.2. In a letter dated May 13, 2019, I asked you to be prepared to share detailed responses to the leveraged lending questions in my April 11, 2019, letter to Financial Stability Oversight Council Chair Mnuchin and to provide supporting data to the Committee as part of your testimony. While I understand from the OCC’s and FDIC’s written testimony that they will continue to monitor leveraged lending risks, you did not provide information in response to my specific questions. Please provide detailed responses to the five questions in my May 13, 2019, and April 11, 2019, letters.

A.2. *Questions from May 13, 2019, and April 11, 2019, letter:* “. . . Regulators must demonstrate that they are responding to threats to financial stability before the real economy suffers. To that end, please provide me the following . . .”

1. Any analyses of the leveraged lending market that the Council and its member agencies have performed in the last 2 years;

Response: The other banking agencies referenced in your April 11, 2019, letter issued guidance regarding leveraged lending in 2013. The NCUA was not a party to that guidance. Leveraged loans represent a small portion, if any, of total assets of credit unions. Total commercial lending, including commercial real estate lending, represents only about 7 percent of total loans for credit unions. Any leveraged lending would be a subset of these loans. As a result, the NCUA does not believe that direct exposure to leveraged lending is material for credit unions. However, we do continually monitor the larger macroeconomic space for any signs of indirect exposures into the credit union system.

2. Any other Council documents discussing the risks of leveraged lending and staff recommendations to address those risks;

Response: Due to the confidential and sensitive nature of many Council documents, please contact the Council regarding release of any documents responsive to this request.

3. A list of all Council meetings where leveraged lending was discussed, including the dates of those meetings, attendees, and materials presented;

Response: Since the Council maintains minutes on all Council meetings, please contact the Council regarding release of information responsive to this request.

4. A list of supervisory or other actions that the Council and its member agencies have taken at regulated institutions in order to address risks in the leveraged lending market, especially with regard to weak underwriting standards; and

Response: As noted above, while we remain vigilant regarding any potential indirect impacts, credit unions do not have material direct exposure to leveraged lending. The NCUA's regulations for commercial lending require the loan risk assessment to be sufficient to fully understand the borrower's needs, confirm the borrower's ability to meet debt service requirements for a properly structured loan, obtain sufficient collateral to offset the risk, and in most cases, requires the personal guarantee of the principal(s) as part of the loan underwriting process.

5. A description of how FSOC is monitoring leveraged lending markets and what actions it plans to take to protect the economy from threats in credit and lending markets.

Response: Due to the confidential and sensitive nature of much of the Council's work, including the discussion of supervisory and other market-sensitive data, please contact the Council directly for this information.

CU fees and interest rates

Q.3. Last year, the New York Times reported on high fees and interest rates charged to members of the Marriott Employees' Federal Credit Union, a credit union with a low-income designation meaning 50 percent of its members have family incomes of less than 80 percent of the median income in the areas it serves. Meanwhile, some of the executives and management of Marriott who also use the credit union received million dollar mortgages and car loans at below-market interest rates. In response to a written question during your nomination hearing, you committed to reviewing credit unions' fees and working to prevent the collection of fees that are inconsistent with the credit union system's mission of providing affordable financial services to working families. You also pledged to ensure that fees do not "needlessly penalize the underserved and those of lesser means."

During this hearing, you called on Congress to allow Federal credit unions with a community or single common-bond charter the opportunity to add underserved areas to their field of membership in order to open up access for unbanked and underbanked households. In line with this effort, would you also advocate for limits on high fees and interest rates for underserved customers?

A.3. Since my confirmation hearing, I have met with the Agency's senior staff to ensure that our examination and supervision system provides proper oversight of consumer protection laws and fulfills the NCUA's responsibility toward underserved communities and low-to-moderate income households. This area is a priority for me, and I continue to assess ways in which the NCUA can do more to best serve unbanked and underbanked households.

Credit unions are not-for-profit organizations that exist to serve their members' financial needs by providing a safe place to save and borrow at reasonable rates. In the event that credit union members feel their institution is not adequately offering services and products that are responsive to their needs they are empowered to advocate for changes. The concept of one member one vote, regardless of the member's financial standing, is unique to the credit union system and should not be taken for granted. Any credit union member who may be dissatisfied with the direction of their credit union, the composition of the Board, the financial products and services offered, the credit union's priorities, or any other grievance is empowered by their vote and the votes of other like-minded members to fashion an institution that is more receptive to the needs of its members. Many credit unions today are a reflection of the advocacy of their members.

In addition, to the one-member-one-vote philosophy, the Federal Credit Union Act explicitly caps the interest rate on Federal credit union loans at 15 percent, with Agency discretion to raise that limit if interest-rate levels could threaten the safety and soundness of credit unions. The current 18-percent ceiling has remained in place since May 1987. The 18-percent cap applies to all Federal credit union lending except originations made under NCUA's Pay-day Alternative Loan (PAL) program, which are capped at 28 percent, far lower than the triple-digit interest rates charged by payday loan purveyors.

In addition, the NCUA's regulations require Federal credit unions to establish written policies regarding the overdraft fees and interest rates, if any, that they charge their members. Excessive reliance on fees to generate income is a factor that the NCUA's examinations process is designed to capture. The vast majority of credit unions strive to protect their members and serve them well. In individual cases, the extent to which some credit union members access certain fee-based services will vary and the cumulative cost to those members could, therefore, be relatively higher than for other members. Just as they continually reassess other business decisions they make, credit unions should be regularly reviewing the impact their fees have on their member base and what they can do to tailor their product offerings to support their members' financial health.

To the extent that Congress is contemplating additional limits, I would be glad to discuss this issue further.

Board member reimbursement

Q.4. During your nomination hearing, you pledged that you would understand the NCUA's expense reimbursement policy and ensure that it is in alignment with other financial regulators after the Washington Post reported on excessive spending by agency officials. What has the NCUA done to address this issue? What is the current policy on executive and employee spending and reimbursement? Is it similar to that of the other financial regulators?

A.4. In March 2019, the NCUA Executive Director completed a review, independent of the NCUA Board, of the travel and expense policies that apply to its political appointees and their staff. The review concluded that the NCUA's policies are materially consistent with the Federal Travel Regulation (FTR) issued by the General Services Administration and comparable to the Federal banking agencies¹ in the key expense categories.

With regard to reimbursement for representation events, the Executive Director's review found that all the banking agencies, and many nonbanking agencies, have varying levels of representation funds. The NCUA is not equipped with a dining facility or regular catering services and very little money is spent on reimbursement for meals and beverages during representation events. From 2015 through 2018, the combined average annual payment for meals and beverages across all board offices was \$9,700. Thus, despite the potential scrutiny of individual meal claims, the review concluded that no changes should be made to the current policy. With regard to the Agency's alcohol reimbursement policy, the review concluded that reimbursement, while legal, should be eliminated. Thus, the NCUA no longer considers alcohol a reimbursable expense for representation events. This change creates full consistency with the Agency's travel policy, which already deems alcohol to be nonreimbursable.

With regard to ground transportation, the Agency's review found that, unlike the NCUA, every banking agency has full-time dedicated vehicles and drivers that transport their political appointees

¹ The banking agencies whose policies were considered for purposes of the review are the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Office of the Comptroller of the Currency.

and agency employees at a cost of approximately \$100,000 annually for a single dedicated car and driver for the Washington metropolitan area. Anecdotal information available on various appropriated Federal agencies indicates that this arrangement is common across the Federal Government. By contrast, all NCUA staff, including political appointees, arrange for taxi or ride-sharing services for each transportation event. From 2015 through 2018, the NCUA board offices spent a combined average of \$14,400 on all ground transportation services, including outside of the Washington metropolitan area. While not consistent with the other banking agencies, the NCUA policy continues to rely on taxis or ride-sharing services for each transportation event.

Finally, with regard to air travel, the review concluded that the NCUA's policy is almost identical to the standards outlined in the FTR and is more conservative than two of the four banking regulators. Thus, no changes were recommended in this area.

Appraisals

Q.5. Last year, prior to your confirmation as Chairman, NCUA proposed to raise the current appraisal exemption for commercial real estate loans from \$250,000 to \$1 million. NCUA characterized this as a “significant increase” in the threshold and noted that the percentage of commercial loans exempted from appraisals would increase from 27 percent to 66 percent.²

Q.5.a. NCUA states that “appropriate prudential and supervisory oversight” can offset the potential risk of raising the appraisal threshold.³ What types of prudential and supervisory changes are necessary to offset any risk not just to the credit union itself but to members and to the commercial real estate market?

A.5.a. We estimate that commercial real estate transactions not covered by an appraisal by a certified appraiser will be less than 1 percent of assets in the credit union system. Also, total commercial real estate loans made by credit unions represent only 2.7 percent of all commercial real estate lending in federally insured financial institutions. As 75 percent to 90 percent of this amount is estimated to still require an appraisal, only about one quarter to three quarters of 1 percent would not be covered.

And, transactions below \$1 million not otherwise exempt will still require written estimates of market value conducted by qualified individuals independent of the lending process. The final rule increases the standards for written estimates. The agency is also party to the December 2, 2010, Interagency Appraisal and Evaluation Guidelines that establish safety and soundness expectations for prudent appraisal and evaluation policies, procedures, and practices.

Further, under the NCUA's commercial loan rule, credit unions must use collateral valuation methods that are appropriate for the particular type of collateral. Specifically, “the current collateral value must be established by prudent and accepted commercial

²“Real Estate Appraisals,” 83 FR 49857, October 3, 2018, available at <https://www.govinfo.gov/content/pkg/FR-2018-10-03/pdf/2018-20946.pdf>.

³*Id.*

lending practices and comply with all regulatory requirements.” 12 CFR § 723.2 and 723.4.

In addition, the agency’s commercial loan rule requires all loans to have a strong foundation—to be solidly underwritten and backed by adequate cash-flow. The proposed rule does not change these basic requirements. Also, credit unions have a long history of tailoring loans and other services so they are in the best interests of their member-owners.

Therefore, increasing the commercial real estate appraisal threshold only results in small incremental risk to the credit union system and the insurance fund, is not material to the overall commercial real estate market, and provides adequate protection for the borrower.

I also note there is a small subset of credit unions that individually have large positions in commercial real estate relative to their size and capital levels. One of the agency’s top supervisory priorities is addressing concentrations of credit risk in individual credit unions. Examiners will focus on large concentrations of loan products and concentrations of specific risk characteristics. A more robust examination quality control process was implemented this year with increased emphasis on concentration risk issues forthcoming. Also, an update to examination scoping procedures requiring examiners to ensure credit unions analyze a borrower’s ability to repay is scheduled to be effective with the release of the 2020 examination program. Even credit unions with an exception to the statutory cap on member business lending are covered under these enhanced examination and quality control procedures.

Q.5.b. In the Regulatory Flexibility Analysis, NCUA noted that it did not have sufficient information to determine what sizes of credit unions would benefit from any reduced regulatory burden from the change in appraisal requirements.⁴ Without this information, how will NCUA assess the impact of any potential rule change on credit unions’ regulatory cost, lending behavior, and loan outcomes? Does NCUA intend to begin collecting this information?

A.5.b. The increase to the appraisal threshold will reduce the burden on all credit unions, including small credit unions, as the threshold for commercial appraisals increases from \$250,000 to \$1 million. The appraisal threshold increase will likely lower transaction costs for credit unions and their borrowers due to the estimated difference in cost between a written estimate of market value and an appraisal. Further, written estimates of market value may take less time to complete than appraisals, thereby reducing transaction time for credit unions and their borrowers. Accordingly, under the Regulatory Flexibility Analysis, the NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

With the upcoming replacement of its legacy examination system, the agency will collect additional information during the examination process about commercial lending in credit unions. This will allow the NCUA to better monitor and evaluate any impact on lending behavior and outcomes.

⁴*Id.*

Q.5.c. In addition to the reduction in regulatory burden, what other factors, if any, will NCUA consider in deciding whether or not to increase the commercial appraisal exemption threshold for credit unions?

A.5.c. In particular, the NCUA considered the extent to which this regulatory relief could be provided safely and without undue risk to the share insurance fund. The current \$250,000 threshold limit has been in place for nearly 20 years. Real estate values have changed dramatically over that time, as a result of demand, inflation and growth. Some adjustment to the appraisal threshold for commercial real estate is warranted on those terms alone. Also, based on the very small level of commercial real estate loan activity in credit unions, the Board concluded the change only results in small incremental risk to the credit union system and the insurance fund, and other regulatory and supervisory requirements provide adequate mitigation.

The agency also considered the extent to which the change might affect the market. The NCUA estimates the change in the commercial real estate appraisal threshold for credit unions will affect less than three-quarters of 1 percent of the commercial real estate market. Therefore, the change is not expected to have a material impact on the overall market.

The NCUA also considered the impact on borrowers. The rule increases the standards for the use of written estimates of the property value, which must be conducted by a qualified person independent of the transaction, such as a licensed appraiser. And, credit unions will still be responsible for adhering to the appropriate risk management practices for underwriting commercial real estate loans. This provides adequate protection for the borrower. In fact, the change is expected to enable credit unions to safely, and when in the best interests of their member-owners, provide more borrowers—especially small businesses—with lower costs and quicker turnaround times for commercial property loans, especially in underserved and rural areas.

Taxi Medallion Loans

Q.6. Recently, the New York Times reported that predatory taxi medallion loans trapped working taxi drivers with debt while creating huge profits and compensation for credit unions and their executives. Eventually, the financial condition of these credit unions deteriorated because of heavy losses on the loans, which were poorly underwritten, exceeded regulatory lending limits, and lacked board and management oversight. According to an Office of Inspector General (OIG) Material Loss Review, NCUA was aware of the risks, but failed to take timely action.⁵

Q.6.a. In addition to the recommendations in the OIG's Material Loss Review of Melrose Credit Union, LOMTO Federal Credit Union, and Bay Ridge Federal Credit Union, how will you improve your examination and enforcement procedures to ensure that known risks to credit unions are identified and corrected? Specifi-

⁵NCUA Office of Inspector General, Material Loss Review of Melrose Credit Union, LOMTO Federal Credit Union, and Bay Ridge Federal Credit Union, Mar. 29, 2019, <https://www.ncua.gov/files/audit-reports/oig-material-loss-review-march-2019.pdf>.

cally, how will you strengthen the examination and enforcement of credit union compliance with member business loan requirements under 12 CFR Part 723, even where a credit union qualifies for an exception from the aggregate limit?

A.6.a. I strongly agree with the OIG's recommendations, and the NCUA is working diligently to implement them. In January of this year, the agency issued its annual examination scope instruction to field staff. This instruction re-emphasized the importance of reviews of concentrations of risk. Also in January, the NCUA issued a letter to all insured institutions outlining the agency's supervisory priorities for the year. One of the top supervisory priorities discussed is concentrations of credit risk, noting examiners will focus on large concentrations of loan products and concentrations of specific risk characteristics. The letter also referred to the existing supervisory guidance regarding concentration risk, NCUA Letter to Credit Unions 10-CU-03.

The NCUA's enterprise risk management council has recently reviewed the current state of concentration risk in the credit union industry, and this group of senior executives is working closely with the national examination program office to implement a standing review process. A more robust examination quality control process was implemented this year with the increased emphasis on concentration risk issues forthcoming. The update to examination scoping procedures requiring examiners to ensure credit unions analyze a borrower's ability to repay is scheduled to be effective with the release of the 2020 examination program. Even credit unions with an exception to the statutory cap on member business lending are covered under these enhanced examination and quality control procedures.

The agency will also emphasize guidance to staff regarding the escalation of actions to resolve repeat findings. The agency's National Supervision Policy Manual details the process staff must follow in applying administrative remedies for identified issues.

Q.6.b. In January 2019, the NCUA approved PenFed's acquisition of Progressive Federal Credit Union, another credit union heavily concentrated in taxi medallion loans. To what extent did NCUA investigate PenFed's and Progressive's compliance with executive compensation regulations, lending requirements, and consumer protection laws before approving the merger?

A.6.b. On September 28, 2018, Pentagon Federal Credit Union (PenFed) submitted an application for an unassisted merger with Progressive Credit Union. The NCUA's Eastern Region worked closely with the NCUA's Office of National Examination and Supervision, the Office of the General Counsel, and the Office of Examinations & Insurance to ensure the subject merger complied with all regulatory requirements. Lending and consumer protection laws were reviewed during the supervision process and the incoming merger request addressed CEO compensation, including "golden parachute" payments that are prohibited under section 750 of the NCUA's regulations.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR
MENENDEZ FROM RODNEY E. HOOD**

Q.1. The landscape has drastically changed since NCUA issued its 2014 Supervisory Letter on taxi medallion lending,¹ with ride-sharing services taking up more of the market share.

To ensure NCUA guidance accurately reflects the taxi medallion market, should the NCUA provide updated national guidance for taxi medallion loans?

A.1. After reviewing the existing supervisory guidance against the current landscape, I believe it remains relevant. The NCUA issued its 2014 Supervisory Letter in response to elevated risk associated with taxi medallion lending.² To clarify the NCUA's expectations, the agency issued supplemental guidance in May 2015, and continues to address taxi medallion secured lending through direct supervision of affected credit unions. This guidance is based on sound commercial lending principles addressed by a host of other related agency and interagency guidance issued over the years. It provides information specific to taxi medallion secured lending on evaluating a borrower's repayment ability in normal and adverse economic climates. The guidance also discusses proven collateral valuation approaches for use in loan underwriting that applies across the spectrum of economic environments.

The NCUA's existing regulations and guidance on loan workouts remain relevant to credit unions with taxi medallion secured loans. Credit unions have significant flexibility to offer distressed borrowers a variety of loan modification and restructuring options. With respect to valuation methodologies, federally insured credit unions are required to follow Generally Accepted Accounting Principles (GAAP). Credit unions with taxi medallion secured loans, and taxi medallions that have been foreclosed, need to consult with their CPA regarding acceptable methodologies for valuing the loans and collateral for loan loss reserving and financial reporting purposes. The NCUA provides credit unions with a variety of reference information on applicable accounting standards.

Q.2. There is currently no uniform risk rating policy in place to monitor the credit risk of taxi medallion loans. Without a uniform risk rating system, it is difficult to quantify risks and manage or monitor these risks according to the threat they pose to different institutions. Should the NCUA consider issuing updated guidance for taxi medallion loans that includes risk rating policies?

A.2. No single credit risk rating system is best for all credit unions. The scope and scale of a credit risk rating system will depend on the variety in a credit union's commercial credit product types, and complexity of the commercial loan portfolio.³ NCUA addresses the effectiveness of a credit union's risk rating system through direct

¹ https://www.ncua.gov/files/letters-credit-unions/SupervisoryLetter_TaxiMedallion.pdf.

² See NCUA Supervisory Letter 14-04, Taxi Medallion Lending, at Taxi Medallion Lending—National Credit Union Administration.

³ See the Commercial and Member Business Loans section of the NCUA Examiner's Guide (Commercial and Member Business Loans > Commercial Risk Rating Systems). <https://publishedguides.ncua.gov/examiner/Pages/default.htm>.

supervision and guidance.⁴ NCUA has issued comprehensive guidance which outlines the expectations for a risk rating system. Therefore, the agency does not impose a specific risk rating system.

With regard to the credit unions with material exposure to taxi medallion secured loans, the NCUA has other methods of quantifying and assessing the risks they pose to each institution. For credit unions that have material exposure to taxi medallion loans, examiners also have the assistance of regional lending specialists. These specialists are experts in supervising commercial credit risk and have had extensive training in evaluating risk rating systems. Their objective is to evaluate the effectiveness of the credit union's overall commercial loan risk management, especially as it relates to rating credit risk.

Q.3. Despite changes in the market, many taxi medallion loans continue to perform. This is especially true where credit unions have worked with owners to adjust the terms of their loans to ensure they are affordable. Where a medallion loan is not performing, credit unions and NCUA examiners should clearly treat the loan differently. However, I have heard concerns that NCUA examiners are approaching both scenarios identically, forcing credit unions to lower the value of taxi medallion loans immediately regardless of cash-flows and whether they are performing.

- Does the NCUA treat both types of taxi medallion loans (performing and nonperforming) the same? If so, why?
- If not, should the NCUA provide clarity to credit unions on how examiners treat performing taxi medallion loans in comparison to nonperforming taxi medallion loans?

A.3. Performing and nonperforming loans should not necessarily be treated the same. Credit considerations vary from loan to loan, and each borrower's unique financial condition and circumstances could result in different outcomes. Therefore, it is not possible to achieve consistency in the resolution of problem loans. As well, it is important to note that credit unions must follow generally accepted accounting principles (GAAP) when valuing the loans for financial reporting purposes.

While we cannot discuss specific cases, the NCUA is working with borrowers. These efforts are complicated by the fluctuating value of the medallions that were used as collateral to secure the loans and, in some cases, the high levels of cash taken out to finance other purchases—such as residential real estate, automobiles or education—when the loans were refinanced.

Each of these borrowers is an individual, and the NCUA is treating each loan individually. Behind many taxi loans are drivers and families affected by the harsh reality of the current taxi medallion market. There is not a one-size-fits-all approach to resolving these challenges.

However, the agency must balance the needs of borrowers alongside its responsibility—mandated under Federal law—to minimize losses to the National Credit Union Share Insurance Fund, which

⁴ See the Commercial and Member Business Loans section of the NCUA Examiner's Guide (Commercial and Member Business Loans > Commercial Risk Rating Systems). <https://publishedguides.ncua.gov/examiner/Pages/default.htm>.

protects 117 million credit union account holders. This is a delicate balancing act and requires careful and judicious decisionmaking.

Credit unions are founded on the principle of people helping people. The NCUA is working hard to find solutions to borrowers' needs without compromising the agency's obligations to maintain the safety and soundness of the credit union system under Federal law, and we are steadfastly committed to that goal.

Q.4. My home State of New Jersey is moving toward legalization of recreational marijuana, and I have concerns that these new businesses as well as the existing medical marijuana businesses in the State will continue to find themselves shut out of the banking system. And when these businesses are forced to operate exclusively in cash, they create serious public safety risks in our communities.

Comptroller Otting and Chair Powell have previously expressed support for legislative clarity on the marijuana banking issue, and I would like to understand Chair McWilliams, Vice Chair Quarles, and Chair Hood's position as well.

Do you agree that financial institutions need legislative clarity on this issue?

A.4. Legislative clarity would help financial institutions understand the rules of the road and operate with greater confidence and certainty in this space.

Q.5. I am also concerned that legal marijuana businesses will continue to find themselves unable to access insurance products, a necessity for those looking to secure financing.

Would it be helpful for Congress to consider the role of insurance companies as States move toward legalization?

A.5. As Congress considers this issue, it would be helpful to consider the role of all stakeholders, including insurance companies, who may be impacted by changes in this space or that could play a role in making these financial transactions more secure.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CORTEZ MASTO FROM RODNEY E. HOOD

Q.1. How are you improving the culture and strengthening the compliance division at the financial institutions you regulate, to ensure that Suspicious Activities Reports are being filed, fake accounts are not created, and customers are treated fairly? Do problems with incentive pay practices that incent staff to engage in fraud or unfair practices still exist at the financial institutions you regulate?

A.1. Credit unions are cooperative, not for profit, member service oriented financial institutions. As such, the vast majority of credit unions strive to protect their members and serve them well. One of the primary goals of the NCUA's examination programs is to ensure credit unions follow the various laws and regulations applicable to them. At every examination, field staff are directed to review the credit union's compliance with the Bank Secrecy Act, the compliance management program, and internal controls. Examiners also review as needed any incentive pay programs in place at the credit union to ensure they comply with applicable

regulatory requirements and do not misalign the individual's and the organization's incentives.

Q.2. Will you ensure access to information from community reinvestment advocates through the Freedom of Information Act with timely responses and without requiring high fees?

A.2. NCUA provides all Freedom of Information Act (FOIA) requesters with access to information consistent with FOIA requirements and its FOIA regulation, including requirements regarding timeliness and fees.

Q.3. There has been an epidemic of fake comments on controversial issues. How will you ensure that comments on rules and mergers are accurate and not based on stolen identities?

A.3. The NCUA diligently reviews all of the comments it receives and bases its evaluation of the comments on their substance. Any abnormalities discovered are assessed as part of this evaluation.

Q.4. Recently, the Office of Management and Budget released a memorandum reinterpreting the Congressional Review Act to include independent regulatory agencies, many of which are your agencies. What would be the impact of requiring OMB review of proposed rules and guidance on your agency?

A.4. The NCUA's General Counsel recommended that we comply with the spirit of the OMB memo, and I decided to implement that recommendation. We believe it is consistent with most of the other FIRREA agencies. This is simply a good Government practice and has not affected the agency's rulemaking or guidance.

Q.5. In your witness testimony, you highlighted the need for the NCUA to have the legal authority to correct systemic cybersecurity risks presented by vendors. Please elaborate on what the risks presented by third-party vendors and credit union service organizations (CUSOs) are.

A.5. The financial sector, including banks and credit unions, increasingly rely on third-party service providers (vendors) to provide and or support technology-related functions. These functions span a wide range of activities, including internet banking, transaction processing, and funds transfers. There are a number of risks that may arise from a credit union's use of third parties. Some of the risks are associated with the underlying activity itself, similar to the risks faced by an institution directly conducting the activity. Other potential risks arise from, or are heightened by, the involvement of a third party. Failure to manage these risks can expose an institution to regulatory action, financial loss, litigation, reputation damage, and may even impair the institution's ability to establish new or service existing customer relationships.

Q.6. In your witness testimony, you state that NCUA can examine CUSOs and third-party vendors with their permission and that CUSOs are required to provide access to their books and records. What information would expanded examination authority provide that you do not have now?

A.6. While the NCUA has access to CUSO books and records through a regulation imposed on the investing credit unions, this does not provide access to examine all of the CUSO's operations.

For example, reviewing books and records alone may not provide sufficient information to determine if deficiencies exist in internal controls or overall governance. Additionally, this requirement only applies to CUSOs and does not provide the NCUA with the ability to review the books and records of other third-party vendors that credit unions may be doing business with.

Q.7. Which of NCUA's recommendations have the CUSOs rejected?

A.7. Due to the lack of supervisory authority over third-party vendors, we do not have recent examples of recommendations that have been rejected.

Q.8. Are you familiar with the practice of the real estate title insurance underwriters to hire or contract off-shore employees or firms to perform domestic property searches?

A.8. The NCUA is generally aware this practice may exist.

Q.9. There are protections in this country for the security of home buyer's personal information. Are there protections in place for information sent to a researcher in another country? How are these protections reviewed and enforced?

A.9. The protections in place for information sent to a researcher in another country are derived from the United States laws imposed on the institution, such as the Gramm-Leach-Bliley Act (GLBA). The ability for institutions to monitor and enforce the adherence to these protections depends on their contractual provisions and service-level agreements with their vendors, and the extent to which they are affected by questions of jurisdiction and enforcement.

Q.10. Do you think home buyers should be told when the title insurance they paid for is being done by a researcher or title examiner in another country?

A.10. The process title insurance companies used to research a home's ownership and lien history should be transparent.

Q.11. Are you concerned that credit unions might be making loans based on inaccurate title searches that were performed by off-shore companies?

A.11. I would certainly be concerned about any inaccuracies in title insurance policies. However, I am not aware of any notable problems credit unions have experienced as a result of inaccurate title searches.

RESPONSE TO WRITTEN QUESTION OF SENATOR SINEMA FROM RODNEY E. HOOD

Q.1. Cybersecurity is a chief concern for U.S. financial institutions and the agencies that regulate them. What is your assessment of the current examination process and regulatory landscape for regulated institutions with respect to cyber?

Cybersecurity is one of my top priorities as Chairman of the NCUA. The NCUA has developed and implemented a comprehensive examination program for cybersecurity. Last month, I appointed a cybersecurity advisor who provides me with strategic counsel on cybersecurity policy and engages with other Federal

financial regulators and external stakeholders. Under my leadership, the agency will continue to advance and improve how we regulate and supervise credit unions with respect to cybersecurity.

How can Federal agencies improve and help harmonize cybersecurity regulations?

A.1. The NCUA's cybersecurity program leverages the Federal Financial Institutions Examination Council's work on the Cybersecurity Assessment Tool, as well as the National Institute of Technology and Standards (NIST) framework. Further improving and harmonizing the cybersecurity regulatory framework starts with ensuring all Federal regulatory agencies have similar foundational authorities.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

May 15, 2019

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing & Urban
Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing & Urban
Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

The undersigned banks are writing to express concern about the potential effect of the Current Expected Credit Loss ("CECL") accounting standard on the availability and cost of credit, especially for low- and moderate-income borrowers and families. It is widely expected that implementation of CECL will require financial institutions to increase their reserves for the loans they make to individuals and businesses. This is because CECL will require that institutions establish--on the first day they make a loan--a reserve equal to the full estimated credit loss on the loan across its entire life.

CECL, in fact, creates a fundamental mismatch in timing, as banks must establish a reserve for the life of each loan they make on Day 1, even though they will only earn interest on the loan over time. This accounting change will impact how banks make loans and to whom they lend; it goes beyond mere accounting for lending or building capital to withstand downturns. We are now beginning to see the magnitude of CECL's effects as banks provide estimates of the financial cost of CECL implementation. These increased costs will likely result in higher loan costs and reduced credit availability.

These effects are likely to be most pronounced for low- and moderate-income (LMI) individuals, whose loans may be viewed as higher risk due to higher debt-to-income ratios or lower levels of financial assets. For example, LMI individuals often utilize credit cards to safely and conveniently address their financial needs from making everyday purchases to handling emergencies or unexpected expenses, such as auto repairs. Yet, preliminary analysis indicates that CECL will have its greatest negative effect on credit card loans. 30-year residential mortgage loans, a cornerstone of the housing industry and a key way that LMI individuals can build wealth through homeownership, also are expected to be negatively impacted by CECL given the long duration of these assets.

Congress has begun to take notice. In December 2018, the House Financial Services Subcommittee on Financial Institutions and Consumer Credit held a hearing on the potential impact of CECL on financial institutions and the economy. At the hearing, numerous witnesses expressed concern about the potential for CECL to both reduce the availability of credit and increase the cost of credit, particularly during economic downturns. Moreover, last week there were bipartisan letters in both the House and the Senate that requested that the Financial Accounting Standards Board (FASB) delay implementation of the new rule until there is a meaningful study of its economic impact.

In light of the concerns expressed regarding CECL and its potential to negatively impact LMI individuals and communities, the undersigned banks respectfully urge a thorough assessment is conducted prior to the implementation of CECL in January 2020. The consequences of such fundamental changes in bank accounting must be clearly understood; therefore, we urge you to support the delay and study of this issue before it is implemented.

We would be happy to discuss this issue or answer any questions you may have.

Sincerely,

Ameris Bank	East West Bank
Apple Bank	Fifth Third Bancorp
Arvest Bank	F.N.B. Corporation
Associated Bank	FirstBank Holding Company
BancorpSouth	First Citizens Bank
Banner Bank	First Financial Bank
BankUnited	First Financial Bankshares
Banc of California	First Hawaiian Bank
Bank Leumi USA	First Horizon Bank
Bank of Hawaii	First Interstate Bank
Bank of the Ozarks	First Merchants Bank
Berkshire Bank	First Midwest Bank
BMO Financial Group	First National Bank of Omaha
BOK Financial	Flagstar Bank
Bremer Bank	Fulton Financial
Bussey Bank	Glacier Bank
Cadence Bank	Great Western Bank
Capital One	Hancock Bank
Cathay Bank	Heartland Financial
Cenlar FSB	Hilltop Holdings
Centennial Bank	Huntington Bancshares
CenterState Bank	Independent Bank
Central Banccompany	International Bancshares
Chemical Bank	Investors Bank
Citizens Financial Group, Inc.	IBERIABANK
CIT Bank	KeyCorp
CIBC	M&T Bank Corporation
City National Bank	MidFirst Bank
Columbia Bank	NBT Bank
Commerce Bank	Northwest Bank
Community Bank	Old National Bank
Cullen/Frost Bankers	Pacific Premier Bank
Customers Bank	PacWest Bank
Discover Financial Services	People's United Bank
Dollar Bank	Pinnacle Bank (Lincoln, NE)
EagleBank	Pinnacle Bank (Nashville, TN)
Eastern Bank	Popular Community Bank

Provident Bank	TowneBank
Rabobank N.A.	Trustmark
Raymond James Bank	UMB Financial
Regions Financial Corporation	Umpqua Bank
Renasant Bank	Union Bankshares
Rockland Trust	United Bank
Sandy Spring Bank	United Community Bank
SeaCoast Bank	United Bankshares
Signature Bank	Valley National Bank
Silicon Valley Bank	Washington Federal
Simmons Bank	Webster Bank
South State Bank	WesBanco Bank
Sterling National Bank	Western Alliance Bank
Stifel Bank & Trust	Wintrust Financial
Synovus Bank	
TCF Bank	
Texas Capital Bank	
Third Federal Savings	
TIAA Bank	

cc: Members of the Committee on Banking, Housing & Urban Affairs



Jim Nussle
President & CEO

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99 M Street SE
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May 14, 2019

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing and Urban
Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban
Affairs
United States Senate
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of America's credit unions, I am writing today regarding the Senate Banking Committee's hearing entitled, "Oversight of Financial Regulators," at which National Credit Union Administration (NCUA) Chairman Rodney Hood will testify. Please find below a comprehensive overview of issues important to credit unions we would like the Committee to be aware of as it proceeds with this hearing. The Credit Union National Association (CUNA) represents America's credit unions and their 115 million members.

Priorities as NCUA Chair

At the April meeting of the NCUA Board, Chairman Hood highlighted several areas he intends to focus on, including enhancing the credit union charter, enhancing cybersecurity efforts, and reducing regulatory burden.

In the recent past, the credit union industry has focused its advocacy efforts on enhancements to the credit union charter. Therefore, we urge the agency to take steps toward this objective, which may include collaborating with parties outside NCUA.

Concern over cyber and data security is likely the single biggest issue currently facing most industries, including financial services. We appreciate NCUA's recognition of the importance of this issue and its commitment to make it a focus area. We ask the agency to outline its short- and long-term strategy for ensuring credit unions and the agency are well positioned to avoid unauthorized loss of information through both cyber and general data breach threats. Further, we urge NCUA to deepen its relationships with other governments agencies and remain consistently engaged in public/private partnerships and cyber exercise planning. Additional commitment toward cyber issues will only help to ensure that credit unions continue to bolster their cyber expertise and ensure that the agency has the relevant expertise to help protect the credit union system.

We also appreciate the agency's commitment to address unnecessary regulatory burden. In addition to following the spirit and intent of the Presidential Executive Order to reduce regulatory burden, we ask the agency to provide a roadmap of both the concrete and policy approaches it will commit to in order to reduce the ever-increasing regulatory pressures on our nation's credit unions.

cuna.org

Importance of the NCUA as an Independent Regulator and Insurer

CUNA continues to strongly support the NCUA's current status as an independent regulator and insurer. Maintaining a separate, independent federal credit union regulator and insurer is critically important to the credit union system. The structural and mission-driven differences between credit unions and banks necessitate such a regulatory scheme: credit unions' not-for-profit structure and their mission to promote thrift and provide access to credit for provident purposes are fundamentally different than other financial services providers.

The NCUA is funded by credit unions and their members, not by taxpayers. Credit unions and their members remain willing to pay for their own regulator provided there is sufficient transparency, including with regard to the agency's budget. For the last three years, even before it was statutorily required to do so, the NCUA has held an annual hearing on its budget, and as a result, the agency's budget has improved. CUNA is generally supportive of NCUA's broad budget priorities. We are hopeful that, as a new member of the NCUA Board, Chairman Hood will commit to prudent stewardship of the credit union member resources put in the agency's trust.

The NCUA-administered National Credit Union Share Insurance Fund (NCUSIF) is also independent of the federal appropriations process, which insulates it from unexpected lapses in funding, including the recent partial government shutdown. Credit union share deposits remain insured and secure. In Fall 2017, the NCUA closed the Temporary Corporate Credit Union Stabilization Fund and merged it with the NCUSIF. The result of this action increased the NCUSIF's equity ratio well past the 1.30% of insured deposits that Congress set as a benchmark. The NCUA set the normal operating level at 1.38% and distributed excess funds to credit unions. We hope, under the Chairman's leadership, the new NCUA Board will commit to returning the normal operating level to 1.30% over a reasonable period of time.

Recent NCUA Actions that Have Been Positive for Credit Unions

We are optimistic that, under Chairman Hood, a full NCUA Board will ensure the NCUA will continue to take action that results in increased flexibility and decreased compliance requirements for credit unions. We appreciate recent actions taken by the NCUA that have been positive for credit unions. These include:

- Extended examination cycles: The NCUA's recent effort to extend the examination cycle for certain credit unions has benefited numerous credit unions, particularly those for which a 12-month cycle was clearly unnecessary. However, we believe the NCUA should extend the examination cycle for credit unions under \$3 billion in assets, as is provided for banks under the Federal Deposit Insurance Act, as recently amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act.
- Streamlined examinations: We appreciate the NCUA's efforts to streamline examinations and make operations more efficient, and we urge the agency to continue these efforts.
- Virtual examinations: We support the NCUA's move toward virtual examinations, provided credit unions have the ability for in-person interaction to allow them to engage with examiners.
- Modernization of the call report: We support the NCUA's work to modernize the call report. On a going-forward basis, we request the agency continually monitor the call report to determine how it can be further improved.
- FOM litigation: We support the NCUA's litigation efforts regarding its field of membership (FOM) rulemaking, including the NCUA's recent appeal to the U.S. Court of Appeals for the D.C. Circuit, which CUNA filed an amicus brief in support of.
- Executive order: We appreciate that even though it is an independent agency, the NCUA has stated its commitment to respect the spirit and intent of the Presidential Executive Order to reduce regulatory burden.

- **Supplemental capital:** While the NCUA has yet to issue a rulemaking on supplemental capital, it has stated it will do so in the near future. CUNA supports an NCUA rulemaking that would provide all credit unions the ability to issue a form of supplemental capital.

We hope Chairman Hood and his fellow Board Members will work to build on the positive momentum that has been created in recent years.

Issues the NCUA Can Improve

While we appreciate the NCUA's recent actions, there are nevertheless issues and rulemakings that cause concern for the credit union industry. We urge the NCUA Board to maintain an open dialogue with CUNA, the state credit union leagues and associations, and credit unions to ensure it is aware of areas where improvements can be achieved.

The NCUA's recent rulemaking on risk-based capital is a prime example of where we believe the NCUA can make improvements. During the rulemaking process, credit unions across the country expressed significant concerns with the new standards, particularly regarding whether the NCUA has legal authority to impose the requirements. Credit unions have concerns with the new risk-based capital standards for determining whether a credit union is well-capitalized, as the Federal Credit Union Act permits the NCUA to impose a risk-based standard for the purpose of determining capital adequacy only.

In addition, credit unions question whether the cost of the additional regulatory burdens imposed by these standards is justified. CUNA's analysis shows that it would have done very little to reduce costs to the NCUSIF had it been in effect during the most recent financial crisis. Upon reflection, the current Prompt Corrective Action (PCA) system served very well during the crisis, with relatively few credit union failures. If the goal of a PCA scheme is for covered institutions to hold sufficient capital to withstand a severe financial crisis without imperiling the deposit insurance fund, credit unions' performance during the recent financial crisis stands as compelling evidence that a major overhaul of current credit union capital requirements toward a Basel-style system is simply not required. Simply put, we believe the NCUA's rule is a solution in search of a problem. We hope that with a fully constituted Board, the NCUA will revisit this rule.

We appreciate comments regarding risk-based capital included in Chairman Hood's answers to written questions posed to him as part of the confirmation process. He stated that he would support a further delay to the implementation of the risk-based capital rule to allow him and his fellow Board Members to further study and assess the rule's real effects on the credit union system. We find these remarks encouraging and urge the agency to implement a plan to conduct such a study.

Furthermore, while outside the NCUA's rulemaking authority, the Financial Accounting Standards Board's (FASB) recent standard on credit losses [referred to as CECL (current expected credit losses)] will have a significant financial and compliance impact on credit unions. We believe a more proactive and collaborative strategy by the NCUA with industry stakeholders will better ensure credit unions are prepared for this major change as the effective date approaches. Preparation for credit unions to comply with the CECL standard should be a top priority for the NCUA, and we hope Chairman Hood will commit to ensuring the NCUA is doing everything it can in this regard.

Importance of NCUA Coordination with Other Regulators

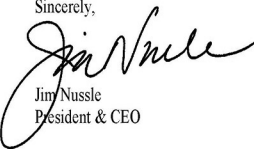
We emphasize the importance of the NCUA's continued coordination with other federal regulatory agencies. As the prudential regulator and federal insurer, the NCUA retains oversight over the vast majority of a credit union's operations. However, there are other agencies that examine and/or regulate credit union operations, such as the Consumer Financial Protection Bureau (CFPB) in regard to certain consumer financial protection laws and regulations, and the Federal Communications Commission in regard to certain consumer protections

including the Telephone Consumer Protection Act. It is critical that the NCUA work closely with these and all agencies affecting credit union operations.

Conclusion

On behalf of America's credit unions and their 115 million members, we appreciate the Committee's commitment to pursuing issues of importance to America's credit union industry. Thank you for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle", written over the printed name and title.

Jim Nussle
President & CEO



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National Association of Federally-Insured Credit Unions

May 14, 2019

The Honorable Michael Crapo
Chairman
Committee on Banking, Housing,
& Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing,
& Urban Affairs
United States Senate
Washington, DC 20510

RE: Oversight of Financial Regulators

Dear Chairman Crapo and Ranking Member Brown:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) to share our thoughts ahead of tomorrow's hearing entitled "Oversight of Financial Regulators." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. NAFCU and our members welcome the Committee's oversight of financial regulators.

Since the financial crisis, the credit union industry has lost over 1,500 institutions. This dramatic consolidation is due, in large part, to increased regulatory compliance requirements. We urge you to continue to work to create a regulatory environment where credit unions can grow and thrive. As we have previously communicated to you, NAFCU supports the following five tenets of a healthy regulatory environment:

- **NAFCU supports a regulatory environment that allows credit unions to grow.** NAFCU believes that there must be a regulatory environment that neither stifles innovation, nor discourages credit unions from providing consumers and small businesses with access to credit. Promoting growth-friendly regulation includes protecting the current tax status of credit unions. It also includes the ability of credit unions to establish healthy fields of membership that are not limited by outdated laws or regulatory red tape. All credit unions should have the ability to add underserved areas to their fields of membership without more regulatory red tape. Revised regulations may also be necessary to address structural barriers to growth. For example, credit unions need modernized capital standards that reflect the realities of the 21st century financial marketplace, such as the ability to issue supplemental capital. Additionally, there must be a housing finance system that works for credit unions.
- **NAFCU supports appropriate, tailored regulation for credit unions and relief from growing regulatory burdens.** Credit unions are swamped by unabated regulatory burden from the Consumer Financial Protection Bureau and other regulatory entities, often from rules that are targeting bad actors and not community institutions. NAFCU supports the adoption of cost-

The Honorable Michael Crapo
 The Honorable Sherrod Brown
 May 14, 2019
 Page 2 of 3

benefit analysis in the rulemaking process to ensure that positive regulations may be easily implemented and negative ones may be quickly eliminated. NAFCU also believes that enforcement orders from regulators should not take the place of regulation or agency guidance to provide clear rules of the road. This NAFCU priority includes seeking regulatory relief and reform that allows credit unions to better serve their members. This includes changes to modernize the *Federal Credit Union Act*, such as giving the National Credit Union Administration (NCUA) authority and flexibility to set longer loan maturity limits, improving credit union investment options, and updating outdated statutory credit union governance provisions found in the Act, including the ability for credit unions to deal with threats to the institution in a timely manner.

- **NAFCU supports a fair playing field.** NAFCU believes that credit unions should have as many opportunities as banks and non-regulated entities to provide provident credit to our nations' consumers. NAFCU wants to ensure that all similarly situated depositories and lenders follow the same rules of the road and unregulated entities, such as predatory payday lenders, do not escape oversight. We also believe that there should be a federal regulatory structure for non-bank financial services market players that do not have a prudential regulator, including emerging fintech companies. Additionally, retailers and others who handle personal financial information should be held responsible for protecting that information. Retailers should also pay their share for costs associated with data breaches and for access to a reliable and secure national payments system.
- **NAFCU supports government transparency and accountability.** NAFCU believes regulators need to be transparent in their actions, with the opportunity for public input, and should respect possible different viewpoints. We believe a bipartisan commission is the best form of regulatory governance structure for independent agencies, and all stakeholders should be able to provide feedback in the regulatory process.
- **NAFCU supports a strong, independent NCUA as the primary regulator for credit unions.** NAFCU believes that the NCUA is the sole regulator equipped with the requisite knowledge and expertise to regulate credit unions due to their unique nature. The current structure of the NCUA, including a three-person board, has a track record of success. The NCUA should be the sole regulator for credit unions and continue to work with other regulators on joint rulemaking and other initiatives when appropriate. Congress should make sure that the NCUA has the tools and powers that it needs to effectively regulate credit unions. However, NAFCU does not support the NCUA expanding its regulatory and examination authority beyond credit unions. We believe the NCUA should focus its resources on regulating and examining credit unions, rather than non-credit union third parties where it may not have the expertise or where there may be duplicative regulatory efforts.

Additionally, NAFCU commends the Committee for its swift action in confirming NCUA Chairman Rodney Hood and Board Member Todd Harper earlier this year. Prior to Senate action, the NCUA had been without a fully-seated Board of three members for nearly three years. While the credit union industry remains vibrant and healthy, there are many challenging issues that we

The Honorable Michael Crapo
The Honorable Sherrod Brown
May 14, 2019
Page 3 of 3

hope that Chairman Hood and the new NCUA Board will address, including a needed review of the pending implementation of a new onerous risk-based capital rule.

Another major concern for credit unions is the Financial Accounting Standards Board's (FASB) Current Expected Credit Loss (CECL) Standard. The CECL standard is the most significant change in accounting rules to hit the financial services industry in decades. NAFCU believes that there is a fundamental misalignment between FASB's objectives in developing the CECL standard and the credit union industry. As not-for-profit member-owned cooperatives, credit unions stand to be severely disadvantaged by this new standard and could be forced to severely curtail certain types of lending because of this standard. NAFCU has urged FASB to reconsider its approach to this proposal and provide an exemption for credit unions because the credit union industry was not responsible for the market conditions that caused the financial crisis. We ask the Committee to work with regulators such as the NCUA to come up with a solution so that credit unions and their 116 million members are not harmed by, and have the resources necessary to understand, this new standard.

Finally, with Federal Reserve Board Vice Chairman for Supervision Randal Quarles before the Committee tomorrow, NAFCU renews our call for the Committee to urge the Federal Reserve Board to revisit the transaction limitation requirements for savings deposits under Regulation D. As we have previously testified before the Committee, the six-transaction limit imposes a significant burden on both credit union members in attempting to access and manage their deposits and credit unions in monitoring such activity. Member use of electronic methods to remotely access, review and manage their accounts, as well as the contemporary transfer needs of members and consumers at all types of financial institutions, make a monthly transaction limit an obsolete and archaic measure. We urge Congress to encourage the Federal Reserve Board to act to review and modernize this outdated provision.

Once again, we thank you for your leadership and ongoing oversight of federal regulators. NAFCU urges you to continue to consider additional regulatory relief measures for credit unions. We appreciate the opportunity to share our input and look forward to continuing to work with the Committee to balance minimizing regulatory burden with enhancing the safety and soundness of the credit union system. Should you have any questions or require any additional information please contact me or Alex Gleason, NAFCU's Associate Director of Legislative Affairs, at 703-842-2237.

Sincerely,



Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Committee on Banking, Housing, and Urban Affairs

May 13, 2019

Secretary Steven T. Mnuchin
U.S. Department of the Treasury
Financial Stability Oversight Council
1500 Pennsylvania Avenue NW, Room 2208B
Washington, DC 20220

Chairman Jerome H. Powell
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Authority to Require Supervision and Regulation of Certain Nonbank Financial
Companies (RIN 4030-ZA00)

Dear Secretary Mnuchin and Chairman Powell,

We are writing in response to Treasury's request for comment on proposed amendments to its interpretive guidance regarding its authority to require supervision and regulation of certain nonbank financial companies.

As the two previous Chairs of the Financial Stability Oversight Council and as the two previous Chairs of the Federal Reserve Board, we write to express our significant concerns with the proposed interpretive guidance released by the Financial Stability Oversight Council (FSOC). We write based on our experience through the financial crisis and its aftermath and with appreciation for the difficulty of putting the Dodd-Frank Act's statutory authorities into practice.

We caution against taking the steps outlined in the proposed guidance. We believe that these steps – in design and in practice – would neuter the designation authority. Though framed as procedural changes, these amendments amount to a substantial weakening of the post-crisis reforms. These changes would make it impossible to prevent the build-up of risk in financial institutions whose failure would threaten the stability of the system as a whole.

It is our belief, consistent with the Dodd-Frank Act, that any financial firm whose material distress or failure could result in a significant threat to financial stability should be subject to enhanced prudential supervision. This cannot rely on a determination that failure is probable; nor can it wait until the point that failure is inevitable. We should not need to wait for cracks in the foundation to appear before recognizing that building inspectors must spend more time on the

largest and most complex buildings. The overwhelming lesson of our experience in the financial crisis is that uncertainty pervades all decision making, especially when financial risks are developing in real time. Even in the months leading up to the crisis, it was not clear which financial firms were most at risk of failing nor was it clear how the risks from the failure of those firms would impact other financial institutions, financial markets, or the economy as a whole.

Although there is a lot that is uncertain about the dynamics of a financial crisis, some things are certain. A fundamental feature of a market oriented, innovative financial system is that – over time – risk will migrate around the prudential constraints that apply to banks, shrinking the effective scope of those defenses, and leaving the overall financial system more fragile. This is what happened in the decade leading up to the crisis, and the failure of prudential regulation to prevent this is a critical reason why the crisis was so severe and challenging to manage.

In this letter, we briefly review the history and the role of the nonbank designation authority in the Dodd-Frank Act. We then explain how this authority was used when we served as members of the FSOC and the importance of the authority to its ongoing mission. Finally, we outline specific concerns with the proposed guidance and the damage that these changes would have on our nation’s ability to safeguard the financial system and economy.

1. Designation Authority in the Context of the Crisis and the Dodd-Frank Act

The failure of nonbank financial companies was central to the propagation of risk from the financial system to the U.S. economy, international financial markets, and the global economy as a whole during the crisis. The story of the crisis is a cascading cycle of market losses causing the failure of highly leveraged financial companies, which in turn caused further market disruptions, and additional failures. The crisis created an immediate impact in lost wealth and started a near free-fall in the US economy that was only arrested by extraordinary and unprecedented legislative and regulatory action and aggressive monetary and fiscal policies. Even so, academic estimates put the cost of lost output as large as a full-year of US GDP.¹

It is now clear that the lack of supervision and oversight of interconnected nonbank institutions contributed to increased risk taking by these companies in the lead up to the crisis. While in the course of the crisis, lack of oversight increased uncertainty about the nature of their risk taking and made government policy less certain and effective in response.

¹ David Luttrell, Tyler Atkinson and Harvey Rosenblum, “Assessing the Costs and Consequences of the 2007-09 Financial Crisis and Its Aftermath,” Federal Reserve Bank of Dallas, Economic Letter Vol. 8, No. 7, September 2013.

Moreover, it would have been difficult to predict ex-ante which of these companies would be central to the path of the crisis even as late as 2006 or 2007. In part, this is because the risk-taking activities of these companies can and did change rapidly in the years preceding the crisis. But more importantly, the path of a crisis is highly dependent on the state of the economy and the state of the financial markets as it unfolds. What is known and can be assessed in advance are the fundamental characteristics of the companies whose failure could threaten financial stability. These included:

- High leverage
- Reliance on short-term financing
- Significant and complex interconnections with other financial firms
- Complex corporate structures that cut across national boundaries
- Lack of comprehensive supervision

Part of the legislative response to these issues in the wake of the crisis was the creation of the FSOC, providing the FSOC with a mandate to monitor the financial system for emerging risks, make recommendations to Congress and to regulators (activities authority), and when appropriate, to determine that certain large, highly leveraged nonbank financial institutions should be subject to consolidated supervision by the Federal Reserve (designation authority).

This designation authority was designed to directly address the risks posed to the financial system by nonbank financial companies and requires regulators to act if they deem a financial institution to be a potential threat to the system. Importantly:

- It was designed to be pre-emptive: recognizing that supervision and regulation will only be effective if it is in place prior to a crisis.
- It was designed to be based on risk: recognizing that legal characteristics like dominant line of business, direct regulatory status, and corporate form were not reliable indicators of risk as the crisis played out.
- It was designed to focus on corporate entities: recognizing that for each of the nonbank financial companies that played important roles in the crisis, there was no one single activity that caused the failure, and no one activity that propagated risk through the system. Rather, multiple high-risk activities combined with corporate structure and financing decisions created the problems.
- It was designed to be flexible based on the judgment of a body of regulators: recognizing that the next crisis would not be identical to the last one, or to any previous one. Therefore, it would require a multi-disciplinary perspective to understand potential emerging risks within a corporate entity and to understand the potential pathways for a nonbank financial company's failure to threaten U.S. financial stability.

Designation authority is an essential complement to prudential supervision of banks in a financial system where other financial firms are permitted to compete alongside banks without being subject to similar regulatory constraints on leverage and funding. At its core, designation authority helps change the framework for financial regulation from a rigid, corporate charter-based framework, to a risk-based framework that recognizes the perimeter of the supervised financial system must be flexible in order to prevent another financial crisis.

2. The Use of Designation Authority

In the course of our leadership of the FSOC, the designation authority was used only four times to designate nonbank financial institutions: GE Capital, AIG, Prudential, and MetLife. Two of these companies became highly distressed during the crisis and contributed to the weakening of many other financial firms with which they were connected. In addition, at the time of designation, both Prudential and MetLife were larger, more highly levered, had higher amounts of short-term financing, and were more global than AIG. GE Capital was de-designated by the FSOC after it restructured its business to become a more traditional captive financing business.

During the initial set up of the FSOC, we spent significant effort gathering comment and outlining a transparent process for designation, including finalizing interpretive guidance in 2012 and revising that guidance based on industry and other stakeholder engagement and feedback in 2015. No companies have been designated since the revised guidance in 2015. Under the Trump Administration, the FSOC has determined to remove AIG and Prudential from Federal Reserve supervision and the Trump Administration has declined to appeal a district court ruling in favor of MetLife, in which MetLife challenged its designation.

The proposed guidance asks if the FSOC's procedures should be adjusted to align with the district court ruling. We believe that the Trump administration was incorrect in declining to appeal and that alignment with the district court decision would be contrary to the statutory framework and would lead the FSOC to adopt a standard that is unworkable – effectively neutering this authority.

The statutory framework gives the FSOC the tools and the mandate to respond when risks migrate to financial institutions where prudential oversight is absent and therefore where regulators would be likely to miss the warning signs of an oncoming failure. The framework clearly states that the FSOC has a duty to impose enhanced prudential standards when it determines that a company *could* pose a risk to financial stability if it fails. The FSOC does not need to predict either a specific probability of failure, nor does it need to predict a specific mechanism for that failure. Congress omitted any requirement or discussion of a cost-benefit analysis. The statutory considerations are designed to be flexible enough to adapt to risks and

changing business models that will emerge as the financial system changes.

To this statutory framework, we added additional procedural elements to increase transparency and opportunities for engagement with companies. Moreover, amendments to the guidance in 2015 clarified opportunities for significant two-way dialogue. The FSOC has also made clear that companies can bring proposals forward regarding their business model or activities to address potential risk concerns, and potentially delay or make designation unnecessary.

In practice, the process for designation took 1.5-2 years for each of the companies that was considered -- including review of thousands of pages of documentation provided by each company, dozens of meetings with the companies under review, and consultations with current regulators. Each company received a multi-hundred page confidential determination memo which they were able to review and challenge before a final decision was made. Upon request, each company was also granted a hearing before the Council.

A similar process, though with *fewer* procedural safeguards, was used eight times for financial market utilities and was not challenged nor the subject of controversy.

3. Designation Authority and the Ongoing Mission of the FSOC

The designation authority of the FSOC is an integral part of its overall mission because it recognizes that different challenges require different types of policy action and also that certain risks within individual corporate entities may cut across regulatory boundaries.

Much of the post-crisis regulatory framework outlined in the Dodd-Frank Act was focused on establishing standards for market-based activities. Risk retention requirements for securitizations were applied to the market as a whole; margin requirements for swaps were applied to the market as a whole. Where risks are diffused among a broad set of market participants and the risks can be effectively mitigated at that level, the post-crisis statutory framework set out directives and new statutory authority for activity-based regulation.

The FSOC's members have also demonstrated their ability to effectively review and address activity-based concerns within their mandate. For example, the FSOC worked with the SEC to publicly advocate and then implement money-market fund reforms. Activity-based rules, guidance, and supervision will often be the best choice to reduce risks in the system. In our experience this was true when we examined a number of asset-management activities and broader risks from cybersecurity.

But activity-based approaches cannot address risks that are tied to the funding, leverage, and combination of activities within a corporation. To illustrate, consider the example of Lehman Brothers heading into the crisis: the span and magnitude of Lehman's activities that played a key role in the crisis included its roles in the subprime mortgage backed securities markets, commercial real estate financing, credit derivatives, and issuance of commercial paper in money markets. As Lehman failed, the impact on money market funds was related to weaknesses in the liquidity standards and concentration limits governing those funds. Uncertainty about Lehman Brothers' failure was exacerbated by dubious transactions known as repo 105, which allowed the firm to hide tens of billions of dollars of leverage off its balance sheet. In fact, regulations addressing each of these activities have been pursued since the crisis but some of those rules, for instance SEC derivatives rules, have still not been completed a decade later and many of them required statutory changes to give regulators new authority.

Even with these activities-based rules, none of them would have affected Lehman's ability to reach 31x leverage ratios or to operate with dangerously thin levels of liquidity. Without designation authority, standards on capital and liquidity cannot be imposed on a nonbank financial company. The designation authority enables the tools of safety and soundness, and the nature of safety and soundness oversight is that it applies to the operations of a firm as a whole. Designation also contributes to market discipline. If a nonbank from a weakly regulated corner of the financial system becomes large and deeply interconnected with the rest of the financial system, and investors perceive that its failure would cause considerable harm to the American economy, they will inevitably place some odds on the firm being bailed out. This lowers the firm's funding cost, giving it an advantage over competitors, and allowing it to grow further. Designation can stop this kind of self-fulfilling prophecy.

As the statutory response to the crisis was developed, it was clear that we needed better and stronger tools to prevent a crisis. Congress created the FSOC with both designation authority and the authority to review and make recommendations regarding activities, with the flexibility and responsibility that each should be used when appropriate. Members of the FSOC must focus their expertise not only on how to identify risks, but also to choose what authorities to use to address that risk. Congress did not intend for one authority to be used as a prerequisite for the other. It is contrary to the statutory duties of the FSOC to needlessly limit the tools that Congress provided them in order to pursue its mission.

4. Potential Damage from the Steps outlined in the Proposed Guidance

The FSOC's proposed interpretive guidance would make four significant changes to the process for designating nonbank financial companies.

1. That designations will only take place after an "activities-based" review has run its course;
2. That designations will consider not just the potential impact of the failure but also the likelihood of that failure;
3. That designations will only happen if a cost-benefit analysis demonstrates that the costs of the regulatory burden to the firm are "justified by" the benefits in increased stability; and
4. That the revised process would allow firms to make managerial and business decisions in response to Council concerns in order to provide a "pre-designation off-ramps"

Appropriate enhancement of procedures and engagement with firms under consideration for designation is appealing, but following this revised approach would make designations an unworkably lengthy process in the best case. They would require the FSOC to base its decision on a falsely precise framework of cost-benefit analysis and the ability to estimate likelihood of failure. They would require the FSOC to engage in inappropriate interaction with the business strategy of firms and drastically increase the potential for designation decisions to become market moving events that provoke instability.

Based on our experience, we believe that following the steps outlined in the guidance would mean that the process would take 6 years or more: Pursuing any activities-based review would take at least two years to conduct, effectuate and review. Committing to give firms time to propose, change and implement business strategy decisions would take an additional two years. And the existing process, even without additional analytical requirements in the proposed guidance took two years to complete. Even supervisory or guidance-based regulatory action would take months to design and implement and could take years to evaluate. Writing of new regulations would take at least two years. We note that some agencies have still not completed statutorily required rulemakings under the Dodd-Frank Act, let alone discretionary rulemakings that are not specifically mandated. In addition, a commitment to giving firms an opportunity to propose business changes in response to FSOC concerns in advance of designation could extend the timeline indefinitely, as the FSOC would need to wait for those business actions to be planned, taken, and then analyzed in the context of the concerns. At a minimum, we would expect that a firm considering material business changes would take 6-12 months to plan those changes, discuss them with the Council, and then another 6-12 months to execute those plans.

A six-year process is unworkable given the realities of financial markets. To understand the potential impact of the proposed procedures on risk in the system, consider that AIG's derivatives group, known as AIG FP, quadrupled in size between 2002 and 2005. As the Lehman Brothers example illustrates, even a two-year period can result in enormous changes to an individual company's profile. Lehman's rapid increase in exposure to illiquid and risky real

estate assets grew significantly in 2006 and 2007. During this period, overall balance sheet assets grew nearly 70% to \$691 billion from \$410 billion, while gross leverage ballooned to 31x from 24x. This increased exposure altered the footprint and transmission mechanisms of the firm on the eve of the crisis, increasing the investment bank's susceptibility to distress in the real estate market.

Our second concern pertains to the requirement to consider the likelihood of failure in the context of a designation decision. It's helpful to consider an analogy to nuclear power plants. We certainly don't impose stringent safety guidelines only on those plants that appear to be on the verge of a meltdown – it doesn't do much good at that point. Such an event would be catastrophic, so we impose stringent safety guidelines on healthy operations to prevent such a facility from experiencing distress and to ensure that if distress occurs it is manageable. As with nuclear power plants, if we wait until failure is reasonably likely at a firm, it's too late to do much about it. For this reason, the Dodd-Frank Act clearly requires that we assume the material financial distress of a firm and determine whether a firm in the midst of such distress could pose a threat to financial stability.

In addition, there are a host of practical challenges in assessing the likelihood of a firm's distress: the distress or failure of large firms occurs so rarely that estimates of their likelihood will inherently be imprecise. Moreover, as the previous discussion shows, experience proves that markets and regulators often fail to foresee the vulnerabilities of individual firms until fairly late. The market-implied probabilities of default of AIG, Fannie, and Freddie were extremely low even into 2007, when the crisis was already unfolding. For designation to strengthen the financial system, it should be deployed sufficiently early so that companies have time to accrete capital naturally and to develop resolution plans – something that can take several years.

Our third concern with these proposed changes is the false precision implied by the cost-benefit analysis standard. The framework of designation is preventive. The costs imposed by the potential failure of a nonbank to the financial system depends on the overall state of the economy and financial system at the time. There is no realistic way to predict probability of a specific firm's role in a specific financial crisis, especially in a context where financial crises are once-in-a-generation events. The proposed guidance's emphasis on comparing an analysis of an individual firm's economics to overall benefits to the system is inappropriate. Moreover, the cost to the firm of designation will depend critically on the changes to the firm's activities, capital structure and so on required by the particular supervisory and regulatory regime put in place upon designation. In each case of designation to date, the Federal Reserve did not have a complete supervisory and regulatory program ready for the firm at the time of designation. Moreover, the Federal Reserve is statutorily required to tailor those standards to the operations and risks of the designated firm.

Our fourth concern with the proposed guidance is that it suggests the need for inappropriate interaction between regulators, firms and business strategy. A general principle of financial regulation is that regulators should set standards for activities and companies, but that management teams, employees and shareholders should make choices about business strategy within the context of those standards. The FSOC's responsibility is to evaluate a company based on its activities and risk profile and to determine whether a company meets the statutory standard and, if so, to require supervision. However, we note that in most scenarios, the FSOC and the company will have differing views of the risks, and the off-ramp conversations proposed in guidance would likely be contentious – increasing litigation risk in an environment where there is no statutory basis and no clear legal framework.

Finally, a requirement to assess that a firm's distress is sufficiently likely would make designation a signal of serious concerns about a firm's financial health. Investors and counterparties will assume that regulators have more and better information and have concluded that there are serious concerns regarding the likelihood of a particular firm's failure. That pattern would be self-defeating on its own terms: being required to assess the likelihood of failure as a key component of the designation would mean that it would be very difficult to designate a healthy firm; but designating a firm that is already weak would mean it would be too late for designation to help. In fact, when firms were designated, they had explicit conversations with FSOC staff members expressing their concerns about market reactions, and in which they asked that the designation letter state clearly that the Council was not making a judgment about the firm's health. As a result, each designation letter explicitly included a prominent statement that "The Council's final determination does not constitute a conclusion that [the designated firm] is experiencing material financial distress."

5. Lessons from Experience

All financial crises are characterized by uncertainty -- uncertainty about the catalysts of crisis, the vulnerability of the system to crisis, the probability of failure of individual firms, the dynamics of contagion, and the potential costs of failure. The judgement reached by Congress in the aftermath of the crisis was to create a stronger set of safeguards against crisis, that could adapt over time to the shifting nature and locus of risk in a dynamic, innovative financial system. Regulation of course carries burdens for individual firms, but these consequences have to be measured against the tragic and indiscriminate costs of a crisis. Financial regulation has to be designed to require firms to internalize the potential for some of the broader economic costs of failure.

This crisis caused severe and lasting damage to hundreds of millions of people and tens of thousands of businesses. Much of this damage could have been prevented if we had in place a

stronger set of safeguards across the financial system. The safeguards that exist today are stronger, but they still only apply to part of the financial system. And the protections they afford will erode over time, as risk migrates and innovation advances. For any system of regulatory protections to be effective, its reach has to extend to where there is risk to the stability of the entire financial system, and it has to be able to evolve with the market. There is no credible way to anticipate the catalyst or the dynamics of crisis, to be able to determine what types of failure might precipitate panic, or to know in advance the magnitude of damage that might be associated with distress. In the severe crisis, it may not be possible for banks subject to prudential supervision to withstand the effects of failure of companies that are not. Nor is it likely that stronger firms will be able to expand lending capacity to compensate for the loss of capacity created by the failure of large nonbank financial institutions. Regulation creates the opportunity and the incentives for arbitrage and avoidance, and as a result the perimeter of those safeguards needs to be able to evolve over time. If not, the power of the safeguards will be weakened, and the overall financial system will be more fragile and vulnerable to crisis.

Designation authority is an important part of the necessary defenses against future crisis. We hope the FSOC will preserve that authority, consistent with the objective established by Congress.

Sincerely,



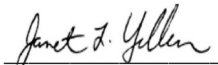
Timothy F. Geithner
Former Secretary of the Treasury



Jacob J. Lew
Former Secretary of the Treasury



Ben S. Bernanke
Former Chair of the Board of Governors
of the Federal Reserve System



Janet L. Yellen
Former Chair of the Board of Governors
of the Federal Reserve System