Testimony of

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On behalf of the

Independent Community Bankers of America

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Chairman Hensarling, Ranking Member Waters, and members of the Committee, my name is David Williams and I am Chairman and CEO of Centennial Bank in Lubbock, Texas. I am pleased to be here today to testify on behalf of the Independent Community Bankers of America and 6,400 community banks nationwide. Thank you for convening today's hearing on "Preserving Consumer Choice and Financial Independence."

I welcome this opportunity to share with you first-hand stories that illustrate the real world, punitive impact of new and accumulated regulation on consumers and small businesses served by community banks. Regulatory burden reaches the level of overkill when it injures the customer it was intended to protect. The stories I will share today, as well as the empirical research, clearly show that we have reached that point. Regulatory relief for community banks is critically important to ensuring continued access to the credit that supports the economic life of our local communities, helping customers purchase homes, save, start and grow businesses, and create jobs. ICBA's "Plan for Prosperity," which I will describe later and which is attached to this testimony, provides a road map for needed regulatory relief.

Centennial Bank, chartered in 1934, is a $740 million bank that serves rural and urban markets in the panhandle and central Texas. We are closely affiliated with another community bank in northeastern New Mexico. Real estate lending, including single family residential lending, accounts for over half of our loans. Commercial and industrial lending to small business and agricultural customers (both row crop production and livestock) accounts for 43 percent of our loans. Our business model is fairly typical of a community bank. Collectively, community banks provide nearly 50 percent of all small business loans in the country and 77 percent of all agricultural loans, according to a newly released study from Harvard's Kennedy School.[1] Our mission is to build successful and meaningful lifetime relationships with our customers. That's what we're about. Centennial's motto, "Your Bank for Generations," is more than a marketing slogan. Our focus is on creating enduring value for our customers, not short term earnings for our bank. This long-term culture, typical of thousands of community banks across the nation, is at risk today.

In recent years, Centennial Bank has experienced a sharply increasing regulatory burden. The nature of our business has changed from lending and investing in our communities to compliance with ever-changing rules and guidance. To give you an idea of the scope of regulatory burden we face today, I am attaching an 18 page "Scope of Services" document prepared by our outside compliance consultant, which details the daunting number of deposit and lending-related laws and regulations to which we are subject. This document does not include review of Fair Lending or Bank Secrecy Act rules, which are among the most difficult regulations to comply with. In the past 10 years our compliance costs have grown from approximately five percent of overhead to 15 to 20 percent today. I believe this increase in regulatory burden has contributed significantly

[1] "The State and Fate of Community Banking." Marshall Lux and Robert Greene. Mossavar-Rahmani Center for Business and Government at the Harvard Kennedy School. February 2015.

to the decrease of 1,342 community banks in the U.S. since 2010. The number of banks with assets below $100 million shrunk by 32 percent, while the number of banks with assets between $100 million and $1 billion fell by 11 percent.[2]

As costly and time consuming as it is for us to stay on top of this burden, I want to focus my testimony on the customer impact. Simply put, regulatory overkill is cutting off access to credit to credit worthy borrowers.

Customer Impact: Examples Abound

Let me share a few examples from my bank and other community banks that illustrate my point. In each of these cases, creditworthy individuals that we previously would have served are being turned away because new mortgage rules deny community bankers the flexibility to serve them or impose costs that make certain types of loans unprofitable.

- Customers who relocate for a new job often fail to satisfy the income verification requirements of the ability-to-repay rule. My bank recently had to decline a mortgage for a realtor with 30 years of experience in his field because he did not have enough paystubs from his new employer. This happens time and again with teachers, doctors, pharmacists, and other professionals who relocate to new towns. A credit worthy borrower shouldn't have to rent, and possibly be forced into a 12-month lease, because they don't have enough paystubs to qualify for a mortgage.
- In our New Mexico affiliate's market, regulatory barriers to mortgage lending are pushing would-be homeowners into the rental market and have actually driven up rents. In Clayton, NM, an average renter now pays $800 to $900 a month, though he or she could purchase a much nicer home for $80,000 with a monthly mortgage payment of $400. I believe the disparity between rents and mortgage payments is directly attributable to the overly stringent underwriting required by new mortgage rules.
- Again and again we have to deny mortgage credit to small business owners who cannot comply with the income documentation requirements under the ability-to-repay rule, despite their excellent credit. The underwriting requirements of QM are inflexible and do not afford the lender discretion to use judgment or to weigh compensating factors such as a high net worth in making credit decisions. You will hear the same story from community bankers all over the country.
- While CFPB rules provide special accommodations for "rural lenders," banks such as mine that serve both rural markets and "urban areas," as defined by the Census Bureau, are denied "rural" status. It doesn't matter that I am the only bank in some of my rural markets. Moreover, the "urban" areas I serve are what most people would call suburban or even exurban. In fact, 85 percent of the Texas population lives in an "urban area," under the

[2] Parsons, Richard J. "Bank Think," The American Banker (February 16, 2015).

Census Bureau definition. Any mortgage lender that serves both rural and "urban" markets is going to generate most of their volume and loan balances in their urban markets. Such lenders fail the CFPB's "rural lender" test, even under the agency's proposed expansion of the "rural" definition. Without "rural lender" status I cannot obtain QM status for balloon loans, a staple of rural lending that protects the lender from interest rate risk. While my bank will continue to make such loans, the vast majority of community banks will not assume the heightened legal liability of non-QM lending. Other "non-rural" community banks are deterred from mortgage lending because they cannot provide costly escrow services.

- Low dollar loans are typical in many parts of the country for purchase or refinance of residential properties. However, the fees on these loans, though low in absolute terms, often exceed the QM fee caps. A community banker from Ohio offers this example: a $75,000 loan with an 80 percent loan-to-value ratio and a cash-out feature. The closing fee for a QM loan in this dollar range is capped at $3,000, which is less than the lender's cost of underwriting and processing the loan. This is a credit worthy loan that will not be made because the lender is not willing to take a loss. Ironically, the loan could be made and transferred to Fannie Mae or Freddie Mac, thereby receiving automatic QM status, but their fee would exceed $4,000, in addition to the originator's fee. QM, far from protecting the customer, causes him to pay significantly more or be denied access to the loan altogether.

I hear these stories again and again from community bankers from Texas and around the country. These are not isolated anecdotes. Study after study, using statistical methods, has reached the same conclusions.

Surveys & Data Analysis Confirm Anecdotal Accounts

In ICBA's 2014 Community Bank Lending Survey, which surveyed over 500 community banks nationwide, 73 percent of survey respondents cited the regulatory burden of new rules and requirements as the most significant barrier to making more residential mortgage loans, more than any other factor including lack of borrower demand, competition from bank and non-bank lenders, or lack of qualified borrowers.[3] In a survey conducted by the Independent Bankers Association of Texas (IBAT), just before the ability-to-repay rules became effective in 2014, 13 percent of respondents said they would stop making mortgage loans in response to the new regulatory landscape, and 53 percent of respondents said they would limit the types of mortgages they offer.[4]

I would add, though this is not captured by the survey, that for many community banks mortgage lending is side product rather than a core component of their business. For example, they may

[3] ICBA 2014 Community Bank Lending Survey

[4] "Texas Community Bank Response to CFPB Mortgage Rules." Compiled by the Independent Bankers Association of Texas. 2014.

offer mortgage credit to strengthen their relationships with small business customers, originating 50 or fewer mortgages a year. It is these banks that are most likely to exit the mortgage business altogether in response to higher regulatory costs. Though they offer relatively few mortgages, their mortgage lending may be important to their local real estate market and critical to their relationship banking model. In the IBAT survey, 30 percent of respondents said that if they stopped or curtailed their mortgage activity, there were no other banks in their area to fill the void.

In a survey conducted by the Conference of State Bank Supervisors (CSBS), before the QM rule became effective, "15 percent of active mortgage lenders noted 80 percent or more of their 1-to-4 family mortgage loans would not meet QM requirements." The most frequently cited reasons for non-compliance were the DTI cap and the bar on balloon payment loans made by "non-rural" lenders.[5] At the same time, according to ICBA's 2104 Community Bank Lending Survey, only 25 percent of respondents are actively providing non-QM loans. These results indicate a significant unmet demand for non-QM loans. QM has effectively shrunk the credit box, stranding borrowers without access to credit. In the ICBA survey a majority of respondents, 57 percent, reported tighter underwriting in residential mortgage lending and 44 percent reported decreases in originations. A significant percentage of survey respondents, 15 percent, are considering an exit or have already exited this line of business.

Regulatory Overkill Does Most Harm to Rural Customers

The economic life of rural America depends on customized financial products and services that only community banks provide. Our bank serves primarily agricultural and related rural markets in the panhandle, South Plains, and Texas Hill Country. Residential properties in small and rural communities are typically unique. They may sit on a large plot of land, be mixed-use in nature, or irregular in other ways. They are frequently outside the city limits of the communities we serve. These are not suburban properties and for this reason they often lack adequate comparables and don't fit the inflexible requirements of the secondary market. In addition, the borrowers may be farmers or small business owners whose debt-to-income ratios fall outside of secondary market parameters, despite their personal net worth and means to repay the loan. Community banks specialize in serving such borrowers, often with balloon payment or other non-conforming loans held in portfolio. Balloon payments protect the lender from the significant interest rate risk of a 30 year, fixed rate loan. They have been made safely by community banks for decades.

Small business lending in rural communities presents a similar story. Community banks extend credit based on their first hand knowledge of the borrower, the community, and the local

[5] "Community Banking in the 21sth Century: Opportunities, Challenges and Perspectives." Federal Reserve System & Conference of State Bank Supervisors. September 2014.

economy. A bank based outside the community simply cannot match this type of underwriting. As the Harvard study noted, in certain lending markets, there is no effective substitute for the "skills, knowledge, and interpersonal competencies" of a community bank. Agricultural lending in particular is a very specialized form of lending that requires extensive knowledge of farming, crops, and local conditions.[6]

Community banks are disproportionately impacted by regulatory overkill because they have a much smaller asset base over which to spread regulatory costs. Without dedicated legal and compliance departments, we have to divert valuable staff from other duties, including serving customers, to implement new rules and other changes, a process that can take weeks or months depending on the complexity of the change and the bank processes impacted. If consolidation continues apace and rural community banks disappear under the weight of regulatory overkill, millions of rural customers – including farmers, small business owners, families and individuals – will be cut off from credit. As an FDIC Community Banking Study showed, in one out of every five counties in the United States, the only physical banking offices are those operated by community banks.[7]

How This Committee Can Help

The good news is that there are readily available legislative solutions to this pending crisis. Working with community bankers from across the nation, ICBA developed its "Plan for Prosperity," a platform of legislative recommendations that will provide meaningful relief for community banks and allow them to thrive by doing what they do best – serving and growing their communities. The Plan is organized around three broad themes: relief from mortgage regulation to promote lending; improved access to capital to sustain community bank independence; and reforming oversight and examination practices to better target the true sources of financial sector risk. Each provision of the Plan was crafted to preserve and strengthen consumer protections and safety and soundness. I encourage the members of this Committee to review the Plan, which is attached to this statement.

I want to acknowledge the important work that this committee has already done to bring relief to community bank customers. Several critical bills were passed at the end of the last Congress and the beginning of the current Congress. These include H.R. 3329, enacted at the end of the 113th Congress, which raised the qualifying asset threshold under the Federal Reserve's Small Bank Holding Company Policy Statement from $500 million to $1 billion. This law will provide significant relief for nearly 650 bank holding companies. Already in the 114th Congress, you passed legislation to ensure community bank representation on the Federal Reserve Board of Governors.

[6] Ibid.
[7] FDIC Community Banking Study. December 2012.

And while many of the bills that passed the House Financial Services Committee and the House last Congress did not see action in the Senate, your work in the last Congress set the stage for enacting legislation in the current Congress. We're very encouraged by the bills that have been introduced in the House so far. Notably, Chairman Neugebauer has introduced the "Financial Products Safety Commission Act of 2015" (H.R. 1266), which would change the structure of the CFPB so that it is governed by a five member commission rather than a single director. Commission governance would allow for a variety of views and expertise on issues before the CFPB and thus build in a system of checks and balances that is absent in a single director form of governance. H.R. 1266 reflects a key plank of the Plan for Prosperity and ICBA strongly endorses it.

The CLEAR Relief Act (H.R. 1233)

I would particularly like to highlight the CLEAR Relief Act (H.R. 1233), introduced by Rep. Blaine Luetkemeyer, which contains seven provisions spanning all three pillars of ICBA's Plan for Prosperity: mortgage regulation relief; capital access; and reform of oversight and supervision. H.R. 1233 has been endorsed by 34 state community bank associations, including the Independent Bankers Association of Texas. The version of the CLEAR Relief Act introduced in the 113th Congress had over 175 bipartisan cosponsors. We hope that H.R. 1233 will exceed the success of the last CLEAR Relief Act and that its provisions will be enacted into law. The provisions of H.R. 1233 include:

Qualified Mortgage Status for Community Bank Portfolio Loans

The CLEAR Relief Act solution to compliance with the "ability-to-repay" rule is simple, straightforward, and will preserve community bank mortgage lending: QM status for loans held in portfolio by a financial institution, including balloon loans in rural and non-rural areas and without regard to their pricing. When a community bank holds a loan in portfolio it holds 100 percent of the credit risk and has every incentive to ensure it understands the borrower's financial condition and to work with the borrower to structure the loan properly and make sure it is affordable. Withholding safe harbor status for loans held in portfolio, and exposing the lender to litigation risk, will not make the loans safer, nor will it make underwriting more conservative. It will merely deter community banks from making such loans. Rep. Andy Barr's "Portfolio Lending and Mortgage Access Act of 2015" (H.R. 1113) includes the same provision.

Escrow Requirement Exemption for Community Bank Portfolio Mortgages

The CLEAR Relief Act would exempt community bank loans held in portfolio from new escrow requirements for higher priced mortgages. This exemption would also apply to all lenders with less than $10 billion in assets. Again, portfolio lenders have every incentive to protect their

collateral by ensuring the borrower can make tax and insurance payments. For low volume lenders in particular, an escrow requirement is expensive and impractical and, again, will only deter lending to borrowers who have no other options.

Small Servicer Exemption

The CLEAR Relief Act would raise the CFPB's small servicer exemption threshold from 5,000 loans to 20,000. Community banks are deeply concerned about the impact of servicing standards that are overly prescriptive with regard to the method and frequency of delinquent borrower contacts. These rigid standards reduce community banks' flexibility to use methods that have proved successful in holding down delinquency rates. Examples of difficult and unnecessary requirements include new monthly statements; additional notices regarding interest rate adjustments on ARM loans; rigid timelines for making contacts that leave no discretion to the servicer; and restrictions on forced placed insurance. Community banks' small size and local presence in the communities we serve make many of these requirements unnecessary.

A higher exemption threshold would preserve the role of community banks in mortgage servicing, where consolidation has clearly harmed borrowers. Community banks above the 5,000 loan threshold have a proven record of strong, personalized servicing and no record of abusive practices. To put the 20,000 threshold in perspective, consider that the five largest servicers hold an average servicing portfolio of 6.8 million loans[8] and employ as many as 10,000 people each in servicing alone.

"Stop and Study" for Basel III Mortgage Servicing Assets Rule

To obtain the full benefit of lifting the small servicer exemption threshold to 20,000 loans, the CLEAR Relief Act would also provide relief from Basel III's punitive capital treatment of mortgage servicing assets (MSAs). Basel III provides that the value of MSAs that exceed 10 percent of a bank's common equity tier 1 capital must be deducted directly from its regulatory capital. In addition, MSAs that are below the 10 percent threshold must be risk weighted at 250 percent once Basel III is fully phased in. Expressed in terms of capital ratios, MSAs will shrink the numerator (when they exceed the 10 percent threshold) and inflate the denominator, resulting in a lower regulatory capital ratio. The Basel III MSA provision would have a significant impact on key measures of regulatory capital adequacy. The Basel III rule is a drastic change from the current rule which allows a bank to hold MSAs up to 100 percent of tier 1 capital (and broader measure of capital) and risk weight MSAs at 100 percent. Regulators have not presented any evidence that community banks' level of MSAs held in portfolio made any contribution to the financial crisis of 2008 and 2009.

[8] Source: Office of Mortgage Settlement Oversight (www.mortgageoversight.com).

The CLEAR Relief Act would require the Federal banking agencies to undertake a joint study of the appropriate capital requirements for MSAs for nonsystemic banking institutions. It would delay the Basel III MSA rule for nonsystemic institutions for up to 18 months and ensure that the eventual rule is well considered.

If community bank servicers don't get relief from the Basel III rule, a small servicer threshold of 20,000 loans will serve little purpose. It makes sense to pair these provisions in the same bill.

Appraisal Exemption for Smaller Mortgages

The CLEAR Relief Act would allow for in-house appraisals for higher priced mortgages of $250,000 or less provided they are held in portfolio. New appraisal standards have forced many community banks to hire appraisal management companies that frequently use appraisers from outside the area and produce lower quality appraisals than could be produced in-house. Not only does this slow down the transaction, but it results in increased costs for the customer. Portfolio lenders have every incentive to ensure appraisals are accurate.

Modernize the Federal Reserve's Small Bank Holding Company Policy Statement

The CLEAR Relief Act requires the Federal Reserve to revise the Small Bank Holding Company Policy Statement – a set of capital guidelines that have the force of law. The Policy Statement, which makes it easier for small bank holding companies to raise additional capital by issuing debt, would be revised to increase the qualifying asset threshold from $1 billion to $5 billion. Qualifying bank and thrift holding companies must not have significant outstanding debt or be engaged in nonbanking activities that involve significant leverage. This will help ease capital requirements for small bank and thrift holding companies. As noted above, ICBA thanks Congress for raising the threshold from $500 million to $1 billion. The CLEAR Relief Act of the 113th Congress, in both the House and Senate versions, set the threshold is $5 billion. We believe this is an appropriate and safe level to accommodate more community bank and thrift capital opportunities.

Short Form Call Report and Extended Exam Cycle

Banks with a CAMELS rating of 1 or 2 would be eligible to file a short form call report in the first and third quarter of each year. A full length call report would be filed in the second and fourth quarters. Banks that meet these criteria would also be eligible for a 24 month examination cycle.

The quarterly call report filed by community banks now comprises 80 pages of forms and 670 pages of instructions. Implementation of the new Basel III capital standards adds nearly 60 additional pages of instructions to the already burgeoning call report. Only a fraction of the

information collected is actually useful to regulators in monitoring safety and soundness and conducting monetary policy. The 80 pages of forms contain extremely granular data such as the quarterly change in loan balances on owner-occupied commercial real estate. Whatever negligible value there is for the regulators in obtaining this type of detail is dwarfed by the expense and the staff hours dedicated to collecting it. Surely, regulators can supervise community banks with significantly less paperwork burden than they currently demand.

Under current agency rules, a bank with assets of less than $500 million that has a CAMELS rating of 1 or 2 is eligible for an exam cycle of 18 months. Banks that do not meet these criteria are examined on a 12 month cycle. The extended exam cycle allows examiners to focus their limited resources on the banks that pose the greatest systemic risk. In order to more fully reap the benefit of risk-focused exams, the exam cycle can and should be further extended to 24 months and available to banks with assets up to $2 billion, provided they have a CAMELS rating of 1 or 2. Preparations for bank exams, and the exams themselves, distract bank management from serving their communities to their full potential. ICBA will pursue legislation in the 114th Congress to create an extended exam cycle as described above.

Eliminate Redundant Privacy Notices

The CLEAR Relief Act provides that a financial institution is not required to mail an annual privacy notice to its customers if it has not changed its privacy policies. Most community banks do not have the scale to automate the annual privacy notice mailings. For these banks, the mailings are a manual, labor intensive process. Eliminating this requirement when a bank has not changed it privacy policies, will conserve resources without putting consumers at risk or reducing their control over the use of their personal data.

Additional Regulatory Relief Bills Before the Committee

ICBA also supports additional bills pending before this committee, including:

- The CFPB-IG Act (H.R. 957), introduced by Reps. Steve Stivers and Tim Walz, would create a dedicated, independent, Senate-confirmed inspector general (IG) for the CFPB. This will greatly improve the accountability of an agency with broad authority and the power to fundamentally reshape the financial services industry. This bill passed this Committee in the last Congress.
- Portfolio Lending and Mortgage Access Act of 2015 (H.R. 1113), introduced by Rep. Andy Barr, would provide QM status to any residential mortgage held in portfolio by the originator. This bill passed the Committee in the last Congress.
- The HELP Rural Communities Act (H.R. 1259), also introduced by Rep. Barr, would create a process in which individuals could petition the CFPB to have the rural status of a county reassessed. H.R. 1259, together with the CFPB proposal to expand the definition of rural,

would help ensure continued access to mortgage credit. This bill passed the House last Congress.

- The Consumer Financial Protection Safety and Soundness Improvement Act (H.R. 1263), introduced by Rep. Sean Duffy, would allow the Financial Stability Oversight Council to stay or set aside any CFPB rule if a majority of the Council, excluding the Director of the CFPB, finds that it is "inconsistent with the safe and sound operations" of U.S. financial institutions. Current law requires a vote of two thirds of the Council and a finding that the rule puts the banking or financial system at risk. ICBA believes that this is an impossibly high standard that does little to strengthen CFPB rulemaking.

All of these bills, among others before the Committee, are part of the solution to regulatory burden.

New Capital Options for Community Banks

We look forward to the introduction and adoption of additional bills that embody unaddressed aspects of the Plan for Prosperity. These include the provisions of the Plan designed to improve capital access and preservation for community banks. The Plan calls for relief for community banks under $1 billion in asset size from the internal control attestation requirements of Section 404(b) of the Sarbanes-Oxley Act. Since community bank internal control systems are monitored continually by bank examiners, they should not have to incur the unnecessary annual expense of paying an outside audit firm for attestation work. This provision will substantially lower the regulatory burden and expense for small, publicly traded community banks without creating more risk for investors.

Three capital provisions of the Plan for Prosperity would amend Basel III for banks with assets of $50 billion or less to restore the original intent of the accord which was intended to apply only to large, internationally active banks. ICBA also recommends reforming Regulation D so any person with a net worth of more than $1 million, including the value of their primary residence, would qualify as an "accredited investor." The number of non-accredited investors that could purchase stock under a private offering should be increased from 35 to 70. These Regulation D amendments have not previously been put into legislation. These provisions were newly added to the Plan for Prosperity for the 114th Congress based on community banker feedback after reviewing and planning implementation of the new rule. None have yet been included in legislation.

Reforming Bank Oversight and Examination

In addition to capital access and mortgage regulation reform a third major theme of the Plan for Prosperity is improving the exam environment for community banks. The trend toward oppressive, micromanaged regulatory exams is an ongoing concern to community bankers

nationwide. I've already discussed the short form call report and extended exam cycle provisions of H.R. 1233. ICBA's Plan for Prosperity also calls for the creation of an independent body to receive, investigate, and resolve material complaints from banks in a timely and confidential manner. The goal is to hold examiners accountable and to prevent retribution against banks that file complaints. The current appeals process is arbitrary and frustrating. Appeals panels, or other processes, routinely lack the independence and market expertise necessary to reach a fair, unbiased decision.

The Financial Institutions Examination Fairness and Reform Act, introduced in the last Congress by then-Rep. Shelley Moore Capito and Rep. Carolyn Maloney, would go a long way toward improving the oppressive examination environment by creating a workable appeals process and consistent, commonsense standards for classifying loans. This legislation would improve the appeals process by taking it out of the examining agencies and empowering a newly created Ombudsman, situated in the Federal Financial Institutions Examination Council, to make final appeals decisions. Though we favor additional measures to bring a higher level of accountability to the regulators and their field examiners, we are pleased to support the intent of this legislation.

Additional Plan for Prosperity Provisions

Cost-Benefit Analysis of Proposed Rules

The financial regulatory agencies should be barred from issuing notices of proposed rulemaking unless they first determine that quantified costs are less than benefits. The analysis must take into account the impact on the smallest banks which are disproportionately burdened by regulation because they lack the scale and the resources to absorb the associated compliance costs. In addition, the agencies would be required to identify and assess available alternatives including modifications to existing regulations. They would also be required to ensure that proposed regulations are consistent with existing regulations, written in plain English, and easy to interpret.

ICBA is grateful to Chairman Garrett for introducing H.R. 1060 in the last Congress, which focused on SEC rulemakings passed the House. Such bills would offer welcome relief to community banks by putting a reasonable check on new regulations and ensuring that they do not jeopardize community banks' viability by imposing costs that outweigh any benefit.

Eliminate Burdensome Data Collection

The Plan for Prosperity calls for exempting banks with assets below $10 billion from the new small business data collection requirements. This requirement, which is in statute but has yet to be implemented by the CFPB, requires the reporting of information regarding every small business loan application. Think of it as HMDA for small business lending. Adding to the complexity, records of applications must be kept separate from records of the responses to applications and must be kept separate from the underwriting process. In other words, the requirement creates a separate bureaucracy within the bank that cannot be integrated with lending operations. This is especially inefficient, and may not be feasible in organizations that are too small to accommodate fire wall structures. Further, data collected by community banks and subsequently made public by the CFPB could compromise the privacy of applicants in small communities where an applicant's identity may be easily deduced, despite the suppression of personally identifying information.

ICBA supported the Right to Lend Act, introduced in the 113th Congress by Rep. Pittenger, which would repeal the small business data collection requirement.

New Charter Option for Mutual Banks

Mutual community banks are among the safest and soundest financial institutions. They remained strong during the financial crisis and continued to provide financial services to their customers. The Plan for Prosperity calls for the creation of a new OCC charter for mutual national banks. This option would provide flexibility for institutions to choose the charter that best suits their needs and the communities they serve.

The Mutual Bank Choice and Continuity Act, introduced in the 113th Congress by Rep. Rothfus would have provided a national charter option for mutual banks, among other provisions.

Risk Targeting the Volcker Rule

The Plan for Prosperity calls for exempting banks with assets of $50 billion or less from the Volcker Rule. The Volcker Rule should apply only to the largest, most systemically risky banks. Approximately one year ago today we saw a vivid example of the unintended consequences of applying the Volcker Rule to community banks. The final Volcker Rule, issued December 2013, required, in most instances, community banks to divest their holdings of collateralized debt obligations (CDO) TruPs by July 2015. This provision was unanticipated. Community banks would have been required to sell their investments at fire sale prices. Accounting standards require community banks to recognize immediately an impairment of their investments. Left unaddressed, this implementation of the Volcker Rule would have caused a significant and permanent loss of capital to hundreds of community banks. ICBA is grateful to this Committee

for your support in persuading the agencies to reverse course on the Volcker Rule CDO Trups provision. This episode should convince all parties that banks with assets of $50 billion or less should be completely exempt from the Volcker Rule.

Closing

Thank you again for the opportunity to testify today. I hope this testimony, while not exhaustive, gives the Committee a sense of the sharply increasing resource demands placed on community banks by regulation and examination and the adverse impact on consumers and small businesses.

We urge that ICBA's Plan for Prosperity – as well as the CLEAR Relief Act and the other bills embodying Plan provisions – serve as a guide to this committee. ICBA encourages you to reach out to the community bankers in your districts and states. Ask them about the current regulatory environment, the customer impact, and needed reforms. ICBA looks forward to working with this Committee to craft urgently needed legislative solutions.

ATTACHMENTS

- ICBA Plan for Prosperity. January 2015
- "Scope of Services." Centennial Bank Regulatory Compliance Consulting Report. November 2014.

ICBA
INDEPENDENT COMMUNITY BANKERS of AMERICA
One Mission. Community Banks.®

Plan for Prosperity

A Pro-Growth Agenda to Reduce the Onerous Regulatory Burden on Community Banks and Empower Local Communities

2015

Plan for Prosperity: An Agenda to Reduce the Onerous Regulatory Burden on Community Banks and Empower Local Communities

America's 6,500 community banks are vital to the prosperity of the U.S. economy, particularly in smaller towns and rural communities. Providing more than half of all small business loans under $1 million, as well as customized mortgage and consumer loans suited to the unique characteristics of their local communities, community banks serve a vital role in ensuring the economic recovery is robust and broad based, reaching communities of all sizes and in every region of the country.

In order to reach their full potential as catalysts for entrepreneurship, economic growth, and job creation, community banks must be able to attract capital in a highly competitive environment. An end to the exponential growth of onerous regulatory mandates is critical to this objective. Regulation is suffocating nearly every aspect of community banking and changing the very nature of the industry away from community investment and community building to paperwork, compliance, and examination. A fundamentally new approach is needed: Regulation must be calibrated to the size, lower-risk profile, and traditional business model of community banks.

ICBA's Plan for Prosperity provides targeted regulatory relief that will allow community banks to thrive by doing what they do best – serving and growing their communities. By reducing unsustainable regulatory burden, the Plan will ensure that scarce capital and labor resources are used productively, not sunk into unnecessary compliance costs, allowing community banks to better focus on lending and investing that will directly improve the quality of life in our communities. Each provision of the Plan was selected with input from community bankers nationwide and crafted to preserve and strengthen consumer protections and safety and soundness.

The Plan is a set of detailed legislative priorities positioned for advancement in Congress. A subset of these priorities is specifically dedicated to strengthening community bank viability by creating new options for capital raising and capital preservation. A number of regulatory relief measures would be tiered, with different thresholds for Consumer Financial Protection Bureau rules (generally $10 billion and under) and safety and soundness regulation (generally $50 billion and under). The recommended thresholds are based on existing levels and statutory provisions, which may vary by provision.

ICBA is committed to advancing and enacting the provisions of the Plan with all due vigilance and the aggressive use of every resource at our disposal. The Plan is a flexible, living document that can be adapted to a rapidly changing regulatory and legislative environment to maximize its influence and likelihood of enactment. Provisions are described below.

ACCESS TO CAPITAL: CREATING NEW OPTIONS FOR THE CREATION AND PRESERVATION OF COMMUNITY BANK CAPITAL

ICBA is proposing a set of options to strengthen community bank viability by enhancing access to capital.

Basel III Amendments: Restoring the Original Intent of the Rule. Basel III was originally intended to apply only to large, internationally active banks. ICBA proposes the following amendments for banks with assets of $50 billion or less.

- *Exemption from the capital conservation buffer.* The new buffer provisions impose dividend restrictions that have a chilling effect on potential investors. This is particularly true for Subchapter S banks whose investors rely on dividends to pay their pro-rata share of the bank's tax. Exempting community banks from the capital conservation buffer would make it easier for them to raise capital.
- *Full capital recognition of allowance for credit losses.* Provide that the allowance for credit losses is included in tier 1 capital up to 1.25 percent of risk weighted assets with the remaining amount reported in tier 2 capital. This change would reverse the punitive treatment of the allowance under Basel III. The allowance should be captured in the regulatory capital framework since it is the first line of defense in protecting against unforeseen future credit losses.
- *Amend risk weighting to promote economic development.* Provide 100 percent risk weighting for acquisition, development, and construction loans. Under Basel III, these loans are classified as high volatility commercial real estate loans and risk weighted at 150 percent. ICBA's proposed change would treat these loans the same as other commercial real estate loans and would be consistent with Basel I.

Additional Capital for Small Bank Holding Companies: Modernizing the Federal Reserve's Policy Statement. Require the Federal Reserve to revise the Small Bank Holding Company Policy Statement – a set of capital guidelines that have the force of law. The Policy Statement, which makes it easier for small bank and thrift holding companies to raise additional capital by issuing debt, would be revised to increase the qualifying asset threshold from $1 billion to $5 billion. Qualifying bank and thrift holding companies must not have significant outstanding debt or be engaged in nonbanking activities that involve significant leverage.

Relief from Securities and Exchange Commission Rules. ICBA recommends the following changes to SEC rules which would allow community banks to commit more resources to their communities without putting investors at risk:

- Provide an exemption from internal control attestation requirements for community banks with assets of less than $1 billion. The current exemption applies to any company with market capitalization of $75 million or less. Because community bank internal control systems are monitored continually by bank examiners, they should not have to sustain the unnecessary annual expense of paying an outside audit firm for attestation work. This provision will substantially lower the regulatory burden and expense for small, publicly traded community banks without creating more risk for investors.

- Due to an oversight in the 2012 JOBS Act, thrift holding companies do not have statutory authority to take advantage of the increased shareholder threshold below which a bank or bank holding company may deregister with the SEC. Congress should correct this oversight by allowing thrift holding companies to use the new 1,200 shareholder deregistration threshold as well as the new 2,000 shareholder registration threshold.
- Regulation D should be reformed so that anyone with a net worth of more than $1 million, including the value of their primary residence, would qualify as an "accredited investor." The number of non-accredited investors that could purchase stock under a private offering should be increased from 35 to 70.

TARGETED REGULATORY RELIEF

Supporting a Robust Housing Market: Mortgage Reform for Community Banks. Provide community banks relief from certain mortgage regulations, especially for loans held in portfolio. When a community bank holds a loan in portfolio, it has a direct stake in the loan's performance and every incentive to ensure it is properly underwritten, affordable and responsibly serviced. Relief would include:

- Providing "qualified mortgage" safe harbor status for loans originated and held in portfolio by banks with less than $10 billion in assets, including balloon mortgages.
- Exempting banks with assets below $10 billion from escrow requirements for loans held in portfolio.
- An exemption from the higher risk mortgage appraisal requirements for loans of $250,000 or less provided they are held in portfolio by the originator for a period of at least three years.
- New information reporting requirements under the Home Mortgage Disclosure Act should not apply to community banks.

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

Reforming Bank Oversight and Examination to Better Target Risk. ICBA makes the following recommendations to allow bank examiners to better target their resources at true sources of systemic risk:

- A two-year exam cycle for well-rated community banks with up to $2 billion in assets would allow examiners to better target their limited resources toward banks that pose systemic risk. It would also provide needed relief to bank management for whom exams are a significant distraction from serving their customers and communities.
- Banks with assets of $50 billion or less should be exempt from stress test requirements.
- Community banks should be allowed to file a short form call report in the first and third quarters of each year. The current, long form call report would be filed in the second and fourth quarters. The quarterly call report now comprises some 80 pages supported by almost 700 pages of instructions. It represents a growing burden on community banks without being an effective supervisory tool.

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

Balanced Consumer Regulation: More Inclusive and Accountable CFPB Governance. The following changes would strength CFPB accountability, improve the quality of the agency's rulemaking, and make more effective use of its examination resources:

- Change the governance structure of the CFPB to a five-member commission rather than a single Director. Commissioners would be confirmed by the Senate to staggered five-year terms with no more than three commissioners affiliated with any one political party. This change will strengthen accountability and bring a diversity of views and professional backgrounds to decision-making at the CFPB.
- The Financial Stability Oversight Council's review of CFPB rules should be strengthened by changing the vote required to veto a rule from an unreasonably high two-thirds vote to a simple majority, excluding the CFPB Director.
- All banks with assets of $50 billion or less should be exempt from examination and enforcement by the CFPB; and CFPB backup (or "ride along") authority for compliance exams performed by a bank's primary regulator should be eliminated.

Eliminate Arbitrary "Disparate Impact" Fair Lending Suits. Amend the Equal Credit Opportunity Act and the Fair Housing Act to bar "disparate impact" causes of action. Lenders that uniformly apply neutral lending standards should not be subject to frivolous and abusive lawsuits based on statistical data alone. Disparate impact forces lenders to consider factors such as race and national origin in individual credit decisions, which are specifically precluded by law.

Ensuring the Viability of Mutual Banks: New Charter Option. The OCC should be allowed to charter mutual national banks to provide flexibility for institutions to choose the charter that best suits their needs and the communities they serve.

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

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

Preserve Community Bank Mortgage Servicing. The provisions described below would help preserve the important role of community banks in servicing mortgages and deter further industry consolidation, which is harmful to borrowers:

- Increase the "small servicer" exemption threshold to 20,000 loans (up from 5,000). To put this proposed threshold in perspective, the average number of loans serviced by the five largest servicers subject to the national mortgage settlement is 6.8 million. An exemption threshold of 20,000 would demarcate small servicers from both large and mid-sized servicers.
- For banks with assets of $50 billion or less, reverse the punitive Basel III capital treatment of mortgage servicing rights (MSRs) and allow 100 percent of MSRs to be included as common equity tier 1 capital.

Creating a Voice for Community Banks: Treasury Assistant Secretary for Community Banks. Economic and banking policies have too often been made without the benefit of community bank input. An approach that takes into account the diversity and breadth of the financial services sector would significantly improve policy making. Creating an Assistant Secretary for Community Banks within the U.S. Treasury Department would ensure that the more than 6,500 community banks across the country, including minority banks that lend in underserved markets, are given appropriate and balanced consideration in the policy making process.

Modernize Subchapter S Constraints. Subchapter S of the tax code should be updated to facilitate capital formation for community banks, particularly in light of higher capital requirements under the proposed Basel III capital standards. The limit on Subchapter S shareholders should be increased from 100 to 200; Subchapter S corporations should be allowed to issue preferred shares; and Subchapter S shares, both common and preferred, should be permitted to be held in individual retirement accounts (IRAs). These changes would better allow the nation's 2,200 Subchapter S banks to raise capital and increase the flow of credit.

Five-Year Loss Carryback Supports Lending During Economic Downturns. Banks with $15 billion or less in assets should be allowed to use a five-year net operating loss (NOL) carryback**.** The five-year NOL carryback is countercyclical and will support community bank capital and lending during economic downturns.

Risk Targeting the Volcker Rule. Exempt banks with assets of $50 billion or less from the Volcker Rule. The Volcker Rule should apply only to the largest, most systemically risky banks. Proposals to apply the rule to community banks carry unintended consequences that threaten to destabilize segments of the community banking industry.

The Independent Community Bankers of America®, the nation's voice for 6,500 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services. For more information, visit www.icba.org.

V. Scope of Services

Review: **Lending-related Laws and Regulations**

We will conduct a review of lending-related laws and regulations on a functional basis whereby certain categories of transactions or functions of the Bank will be reviewed for the various laws, regulations and requirements that are applicable.

Regulatory Compliance Review

Lending-related Laws and Regulations

We will conduct a review of lending-related laws and regulations on a functional basis whereby certain categories of transactions or functions of the Bank will be reviewed for the various laws, regulations and requirements that are applicable.

Closed-end Mortgage Loan Originations

We will review a sample of closed-end mortgage loans to evaluate the Bank's compliance with certain provisions of the following laws and regulations, as applicable:

12 CFR Part 339 – Loans in Areas Having Special Flood Hazards

- 12 CFR 339.6 – Required Use of Standard Flood Hazard Determination Form

12 CFR Chapter X Part 1002 – Equal Credit Opportunity (Regulation B)

- 12 CFR Chapter X 1002.7 – Rules Concerning Extensions of Credit
- 12 CFR Chapter X 1002.13 – Information for Monitoring Purposes
- 12 CFR Chapter X 1002.14 – Rules on Providing Appraisal Reports

12 CFR Chapter X Part 1022 – Fair Credit Reporting (Regulation V)

- 12 CFR Chapter 1022.72 – Requirements for Risk-based Pricing Notices
- 12 CFR Chapter 1022.73 – Content, Form and Timing of Risk-based Pricing Notice
- 12 CFR Chapter 1022.74 – Exceptions to Risk-based Pricing Notice

12 CFR Chapter X Part 1003 – Home Mortgage Disclosure (Regulation C)

- 12 CFR Chapter X 1003.4 – Compilation of Loan Data

12 CFR Chapter X Part 1026 – Truth-in-Lending (Regulation Z)

- 12 CFR Chapter X 1026.18 – Content of Disclosures
- 12 CFR Chapter X 1026.19 – Certain Residential Mortgage and Variable Rate Transactions
- 12 CFR Chapter X 1026.22 – Determination of Annual Percentage Rate
- 12 CFR Chapter X 1026.23 – Right of Rescission
- 12 CFR Chapter X 1026.32 – Requirements for Certain Closed-end Home Mortgages
- 12 CFR Chapter X 1026.34 – Prohibited Practices Related to High Cost Mortgage Loans
- 12 CFR Chapter X 1026.35 – Requirements for Higher-priced Mortgage Loans

- 12 CFR Chapter X 1026.36 – Prohibited Practices in Connection with Credit Secured by Principal Dwellings
- 12 CFR Chapter X 1026.43 - Minimum Standards for Transactions Secured by a Dwelling

12 CFR Chapter X Part 1024 – Real Estate Settlement Procedures

- 12 CFR Chapter X 1024.6 – Special Information Booklet
- 12 CFR Chapter X 1024.7 – Good Faith Estimate
- 12 CFR Chapter X 1024.8 – Use of HUD-1 or HUD-1A Settlement Statements
- 12 CFR Chapter X 1024.15 – Affiliated Business Arrangements
- 12 CFR Chapter X 1024.17 – Escrow Accounts
- 12 CFR Chapter X 1024.20 – List of Homeownership Counseling Organizations
- 12 CFR Chapter X 1024.33 – Mortgage Servicing Transfers

Fair Credit Reporting Act

- Section 609 – Disclosures to Consumers

Consumer Loan Originations

We will review a sample of consumer loan originations to evaluate the Bank's compliance with certain provisions of the laws and regulations listed below.

12 CFR Chapter X Part 1002 – Equal Credit Opportunity (Regulation B)

- 12 CFR Chapter X 1002.7 – Rules Concerning Extensions of Credit
- 12 CFR Chapter X 1002.13 – Information for Monitoring Purposes
- 12 CFR Chapter X 1002.14 – Rules on Providing Appraisal Reports

12 CFR Chapter X Part 1022 – Fair Credit Reporting (Regulation V)

- 12 CFR Chapter X 1022.72 – Requirements for Risk-based Pricing Notices
- 12 CFR Chapter X 1022.73 – Content, Form and Timing of Risk-based Pricing Notice
- 12 CFR Chapter X 1022.74 – Exceptions to Risk-based Pricing Notice

12 CFR Chapter X Part 1026 – Truth-in-Lending (Regulation Z)

- 12 CFR Chapter X 1026.18 – Content of Disclosures
- 12 CFR Chapter X 1026.22 – Determination of Annual Percentage Rate
- 12 CFR Chapter X 1026.46 – Special Disclosure Requirements for Private Education Loans

12 CFR Part 227 – Unfair or Deceptive Acts or Practices (Regulation AA)

- 12 CFR 227.14 – Unfair or Deceptive Practices Involving Cosigners

Preservation of Consumers Claims and Defenses

12 CFR Part 343 – Consumer Protection in Sales of Insurance

- 12 CFR 343.40 – What a Covered Person Must Disclose

Commercial Loans Originations

We will review a sample of commercial loan originations to evaluate the Bank's compliance with certain provisions of the laws and regulations listed below.

12 CFR Part 339 – Loans in Areas Having Special Flood Hazards

- 12 CFR 339.6 – Required Use of Standard Flood Hazard Determination Form

12 CFR Part 202 – Equal Credit Opportunity (Regulation B)

- 12 CFR 202.7 – Rules Concerning Extensions of Credit, including spousal signatures
- 12 CFR 202.13 – Information for Monitoring Purposes
- 12 CFR 202.14 – Rules on Providing Appraisal Reports

Fair Credit Reporting Act

- Section 615 – Requirements on Users of Consumer Reports

Denied Loan Applications

We will review a sample of the Bank's denied loan applications for compliance with certain provisions of the following laws and regulations, as applicable:

12 CFR Chapter X Part 1002 – Equal Credit Opportunity (Regulation B)

- 12 CFR Chapter X 1002.7 – Rules Concerning Extensions of Credit
- 12 CFR Chapter X 1002.9 – Notifications
- 12 CFR Chapter X 1002.13 – Information for Monitoring Purposes

12 CFR Chapter X Part 1003 – Home Mortgage Disclosure (Regulation C)

- 12 CFR Chapter X 1003.4 – Compilation of Loan Data

12 CFR Chapter X Part 1026 – Truth-in-Lending (Regulation Z)

- 12 CFR Chapter X 1026.18 – Content of Disclosures
- 12 CFR Chapter X 1026.19 – Certain Residential Mortgage and Variable Rate Transactions

12 CFR Chapter X Part 1024 – Real Estate Settlement Procedures

- 12 CFR 1024.7 – Good Faith Estimate
- 12 CFR 1024.21 – Mortgage Servicing Transfers

Fair Credit Reporting Act

- Section 609 – Disclosures to Consumers
- Section 615 – Requirements on Users of Consumer Reports

Home Mortgage Disclosure Act Review

This review is conducted to evaluate the Bank's compliance with the reporting requirements of the Home Mortgage Disclosure Act (Regulation C). We will review a sample of real estate-related loans and applications and the Bank's HMDA Register to assess the Bank's compliance with the following two aspects of its HMDA reporting obligation:

- Identification of HMDA Reportable Applications
- Accuracy of Reported Applications

Additionally, we selected a sample of loans from new loan reports that were not on the Register to determine if such loans were appropriately excluded from the Register.

Flood Insurance Review

Adequacy of Flood Insurance Coverage

We will request a list of all positive determinations from each of the flood determination providers utilized by the Bank. Using this information, we will select a sample of loans secured by property located within special flood hazard areas (SFHA) to evaluate whether the Bank has appropriate coverage in place considering the following:

- Does the flood insurance equal the lesser of the current loan balance or the value of the insurable improvements?
- If the property securing the loan is cross-collateralized with other loans at the Bank, does the Bank have flood insurance coverage equal to the lesser of the aggregate loan balance or the value of the insurable improvements located within the flood hazard area?
- If the property is secured by a subordinate lien, is sufficient coverage in place to cover all prior liens?
- If the loan is secured by contents within a structure located in an SFHA, does the Bank have sufficient flood insurance coverage on the contents?
- If the property located within the SFHA includes multiple structures, does the Bank have a separate insurance policy on each of the structures as required?
- If the loan is secured by a condominium unit, does the Residential Condominium Building Association Policy cover the replacement cost value of the condominium complex? If not, does the condominium unit have a separate flood policy in place to cover the amount of any Residential Condominium Building Association Policy shortage?
- If the loan was originated within the previous 12 months, was there sufficient coverage in place at the time of closing?

- Is there a current, unexpired flood insurance policy in effect?
- Did the flood insurance policy reflect the same flood zone as indicated on the SFHDF?
- Was the Bank reflected as a first or subordinate lienholder, as applicable, on the flood insurance policy?

If any lapses in flood insurance coverage were observed within the previous 12 months, did the Bank:

- Send a 45-day letter to the borrower informing them of the need to obtain or increase the flood insurance coverage?
- Force-place flood insurance after the 45-day period has ended?

Use of Standard Flood Hazard Determination Forms

We will review the sample of loans secured by property located in an SFHA to assess whether:

- A SFHDF was obtained for each loan secured by improved real property, as applicable.
- The SFHDF was obtained prior to closing.
- If the SFHDF was obtained within the past 12 months, it included the Bank's lender identification number.
- If the SFHDF was obtained within the past 12 months, whether the form was complete and accurate.

Flood Notifications

We will review the sample of loans secured by improved property located within an SFHA that were made, increased, extended or renewed within the previous 12 months to assess whether:

- A flood notification was observed within the loan file.
- The flood notification included the following information:
    - A warning, in a form approved by the Director of FEMA, that the building or the mobile home is or will be located in an SFHA.
    - A description of the flood insurance purchase requirements set forth in Section 102(b) of the Flood Disaster Protection Act of 1973.
    - A statement, where applicable, that flood insurance coverage is available under the National Flood Insurance Program and may also be available from private insurers.
    - A statement whether federal disaster relief assistance may be available in the event of damage to the building or mobile home caused by flooding in a federally declared disaster.

- The flood notification was provided to the borrower in a reasonable period of time prior to closing.
- The flood notification was signed by the borrower.

Other Flood Insurance Issues

If the Bank has established an escrow account for the payment of property taxes and/or hazard insurance, were the flood insurance premiums also escrowed?

If the Bank is relying on a third party to perform flood determinations, does the service also include life of loan coverage?

If the servicing rights of any loans secured by a building or mobile home located in or to be located within an SFHA have been transferred to the Bank, has the Bank notified the insurance provider, in writing within 60 days after the effective date of the change, as applicable?

Through discussion with appropriate Bank personnel, assess whether the Bank has reviewed its third-party flood determination provider's practices to ensure that they rely on the Community Status Book (CSB) when determining community status information for the determinations. If the Bank performs its own flood determinations, determine whether it also relies on the CSB when determining community status information for determinations.

Other Lending-related Requirements

Periodic Statements-Closed-end Mortgage Loans (12 CFR Chapter X 1026.41) – If the Bank does not meet the "Small Servicer" definition, we will review a sample of periodic statements for the Bank's mortgage loans to evaluate whether the periodic contain the disclosures required by Section 1026.41 of Regulation Z.

Periodic Statements (12 CFR Chapter X 1026.7 and 1026.8) – We will review a sample of periodic statements for the Bank's HELOC and POLOC plans to evaluate whether the periodic statements reflect consistency with the terms of the agreements and contain the disclosures required by Sections 1026.7 and 1026.8 of Regulation Z.

Billing Rights (12 CFR Chapter X 1026.9(a)) – If the Bank does not include a statement of billing rights with each periodic statement, we will evaluate whether a statement of billing rights is furnished on an annual basis as required by Section 1026.9(a).

ARM Adjustments – We will review a sample of adjustable rate mortgage loans to assess whether the interest rate adjustments were consistent with the terms of the note and disclosed in accordance with the requirements of Section 1026.20 of Regulation Z.

Supplemental Credit Devices (12 CFR Chapter X 1026.9(b)) – We will inquire as to whether the Bank issues supplemental credit access devices after originating an open-end line of credit plan, and if so, we will evaluate whether the Bank provides the additional disclosures required by Section 1026.9(b).

V. Scope of Services

Changes in Account Terms for Home Equity Plans (12 CFR Chapter X 1026.9(c)) – We will inquire as to whether the Bank has changed any account terms on its home equity plans within the previous 12 months, and if so, we will evaluate whether the Bank has provided an appropriate and timely notification as required by Section 1026.9(c)(1).

Crediting of Payments (12 CFR Chapter X 1026.10) – We will discuss the Bank's practices for posting payments on HELOCs and overdraft protection lines of credit with an appropriate representative to evaluate whether payments are posted in a manner that is consistent with the requirements of Section 1026.10 of Regulation Z.

Billing Error Notices (12 CFR Chapter X 1026.13) – We will request and review a sample of billing error resolution files received by the Bank within the previous 12 months and evaluate whether the disputes were resolved in accordance with the provisions of Section 1026.13.

Servicing of Loans Secured by Primary Dwellings (12 CFR Chapter X 1026.36(c)) – We will review the Bank's practices for servicing loans secured by a consumer's principal dwelling to evaluate whether the Bank refrains from the following prohibited practices:

- Failing to credit a payment to the consumer's loan account as of the date of receipt
- Imposing on the consumer any late fee or delinquency charge when the only delinquency is attributable to late fees or delinquency charges assessed on earlier payments
- Failing to provide, within a reasonable time after receiving a request from the consumer, an accurate statement of the total outstanding balance for payoff purposes

Mortgage Transfer Disclosures (12 CFR Chapter X 1026.39) – We will inquire as to whether the Bank has become the owner of existing mortgage loans secured by a consumer's principal dwelling by acquiring legal title through purchase, assignment, or other transfer during the past 12 months. If so, we will assess whether the Bank has provided the appropriate mortgage transfer disclosures required by Section 1026.39 of Regulation Z before the 30th calendar day following the acquisition date.

Appraiser Independence (12 CFR Chapter X 1026.42) – We will review the Bank's policies, procedures, and practices with respect to obtaining or performing appraisals on loans secured by a consumer's principal dwelling to test whether they are consistent with the independence requirements of Section 1026.42 of Regulation Z.

Loan Originator Compensation (12 CFR Chapter X 1026.36) – We will review the Bank's policies, procedures and practices, as well as any compensation agreements the Bank has with its MLOs to evaluate the Bank's compliance with the provisions of Section 1026.36(d) of Regulation Z regarding prohibited payments to loan originators.

Annual Escrow Account Disclosures (12 CFR Chapter X 1024.17) – We will review a sample of annual escrow account statements to evaluate the accuracy of the calculations and whether the required information was disclosed in accordance with the provisions of Section 2400.17 of the RESPA regulation.

V. Scope of Services

RESPA Kickback Provisions(12 CFR Chapter X 1024.14) – Based on inquires with Bank personnel and review of relevant documentation, we will test whether any relationships maintained by the Bank or Bank personnel that relate to settlement services involving federally related mortgage loans, are consistent with the requirements of Section 2400.14 of the RESPA regulation pertaining to kickbacks and unearned fees.

Forced-placed Hazard Insurance (12 CFR Chapter X 1024.37) – If the Bank force-placed hazard insurance on any RESPA covered loan within the previous 12 months, we will review procedures, documentation and notification letters to evaluate if the Bank complied with the provisions of Section 1024.37.

Error Resolution Notices and Information Requests (12 CFR Chapter X 1024.35 and 1024.36) – If the Bank had any error resolution notices or information requests on any RESPA covered loan within the previous 12 months, we will review procedures, documentation and written responses to evaluate if the Bank complied with the provisions of Sections 1024.35 and .36.

Loss Mitigation Procedures (12 CFR Chapter X 1024.41) – Based on inquiries with Bank personnel and review of relevant documentation, we will test to ensure the Bank has not made the first notice or filing required to foreclose on any mortgage loan in first lien position secured by the consumer's principal residence unless the loan is more than 120 days delinquent and that the Bank has not moved for foreclosure or order of sale or conducted a foreclosure sale if consumer is performing pursuant to the terms of a loss mitigation agreement.

Additionally, if the Bank does not meet the "Small Servicer" definition, we will review the documentation for any delinquent mortgage loan in first lien position secured by the consumer's principal residence to evaluate whether they meet the requirements.

Written Procedures (12 CFR Chapter X 1024.38) – If the Bank does not meet the "Small Servicer" definition, we will we will review the written Servicing Procedures for Regulation X to evaluate whether they meet the content requirements.

Early Intervention with Delinquent Borrowers (12 CFR Chapter X 1024.39) – If the Bank does not meet the "Small Servicer" definition, we will review the documentation and written notices for any delinquent mortgage loan in first lien position secured by the consumer's principal residence to evaluate whether they meet the requirements.

Continuity of Contact with Delinquent Borrowers (12 CFR Chapter X 1024.40) – If the Bank does not meet the "Small Servicer" definition, we will review the documentation for any delinquent mortgage loan in first lien position secured by the consumer's principal residence to evaluate whether they meet the requirements.

Servicemembers Civil Relief Act (SCRA) Exercise of Rights – Based on discussion with Bank personnel and a review of relevant documentation, we evaluate whether the Bank refrains from taking adverse action on a servicemember based on the servicemember's exercise of rights under the SCRA.

SCRA Transaction Testing – We will review a sample of consumer and residential loans, for which the Bank was provided written notice of the borrower's military service, to evaluate the Bank's compliance with Section 207 of the SCRA related to the "maximum rate of interest on debts incurred before military service."

Homeownership Counseling Notice – We will review the Bank's process for providing the Homeownership Counseling Notice to borrowers that are more than 45 days late on loans secured by their principal residence, pursuant to Section 106(c)(5) of the Housing and Urban Development Act of 1968.

Secure and Fair Enforcement for Mortgage Licensing Act Review

We will conduct the following procedures to evaluate the Bank's compliance with 12 CFR 1007 pertaining to Registration of Residential MLOs.

- *Review of Written Policies and Procedures* – We will review the Bank's written policies and procedures to assess whether they are appropriate to the nature, size, complexity and scope of mortgage lending activities and whether they meet the minimum requirements established in Section 1007.104
- *Review Process for Identifying MLOs* – We will discuss the Bank's process for identifying the individuals required to be registered as MLOs with appropriate personnel to evaluate whether the process used was likely to identify those individuals meeting the definition of an MLO as defined in Section 1007.102.
- *Review of Registration of MLOs* – We will request a list of the individuals involved in the mortgage loan function as well as the job descriptions of these individuals, to the extent available. We will compare this list of individuals with those registered under the Bank in the Consumer Access site of the Registry to assess whether all persons meeting the definition of an MLO have been registered appropriately as required by Section 1007.103.
- *Review of Information Submitted by or on Behalf of Registered MLOs* – We will request a print-out of the NMLS MU4R form data submitted by or on behalf of a sample of MLOs and compare the information submitted with the information contained within the Bank's records for accuracy.
- *Designated Registry Contact Persons* – We will review the names and job descriptions of the individuals that have been granted authority to enter information on the Registry and to delegate this authority to others to test that the names and other required information of these individuals has been submitted to the Registry, that the information submitted remains current and that these individuals do not meet the definition of an MLO as required by Section 1007.103.
- *Confirmation of MLOs* – For each individual that has been registered as an MLO, we will request documentation that the Bank has submitted confirmation to the Registry that it employs the registrant.
- *MLOs Leaving Bank Employment* – We will compare a listing of current employees with a listing of the individuals registered as MLOs to test whether the Bank has updated the registry within 30 days after a particular registrant ceased to be an employee of the Bank.

Use of Unique Identifier – We will review the policies and procedures established by the Bank for use by MLOs of the unique identifying number obtained through the Registry as required by Section 1007.105.

Advertising Requirements

We will request the Bank's advertising records for the previous 12 months and conduct a review of a judgmental sample of advertisements for compliance with certain provisions of the laws and regulations identified below. We will also review the Bank's website for these same provisions.

12 CFR Chapter X Part 1026 – Truth-in-Lending – Subpart C (Regulation Z)

- 12 CFR Chapter X 1026.16 – Advertising of Open-end Credit
- 12 CFR Chapter X 1026.24 – Advertising of Closed-end Credit

12 CFR Part 338 – Fair Housing

- 12 CFR 338.3 – Nondiscriminatory Advertising

Section 5 of the Federal Trade Commission Act

Loans to Insiders (Regulation O) Review

We will review the Bank's policies and procedures to determine if extensions of credit made to insiders are made on substantially the same terms as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the Bank with other bank customers. We will review the underwriting practices of extensions of credit to insiders to determine whether they involved more than the normal risk of repayment or presented other unfavorable features.

We will review extensions of credit originated in the past 12 months to determine that lending limits had not been exceeded and that applicable approval from the Board of Directors had been obtained as specified by Section 215.4 of Regulation O.

We will review the Bank's list of overdrafts for executive officers and directors to determine if the Bank's procedures for handling overdrafts were consistent with Section 215.4(e) of Regulation O.

We will evaluate whether the Bank identified, through an annual survey, all insiders of the Bank and maintains records of all extensions of credit to insiders, including the amount and terms of each such extension of credit.

We will evaluate whether the Bank maintains records of extensions of credit to insiders of the Bank's affiliates, if any.

We will evaluate if the Bank's most recent quarterly Report of Condition and Income (Call Report) included all extensions of credit made by the Bank to its executive officers, directors, principal shareholders and their related interests as of the report date.

We will inquire whether there were any extensions of credit to executive officers and directors that were secured by shares of the Bank. If so, we will determine whether the extensions of credit had been reported annually to the Board of Directors as required by Section 215.10 of the Regulation.

We will inquire whether the Bank had received any written requests from the public for information concerning outstanding loans to executive officers and principal shareholders. If applicable, we will evaluate whether the Bank had responded to such a request, as required by Section 215.9 of Regulation O.

We will review previous examination reports and findings to evaluate whether the Bank corrected any findings or deficiencies identified during the reviews.

Fair Credit Reporting Act and FACT Act

Obtaining Consumer Reports

Controls Over Access to Obtaining Consumer Reports – Based on a review of written policies and procedures and discussion with Bank personnel, we will assess whether each business unit whose employees have access to consumer reports have appropriate procedures and controls for ensuring that consumer reports are only obtained for permissible purposes.

Documentation of Permissible Purpose – We will request a listing of consumer reports obtained by the Bank for a specified period of time and request documentation to support the permissible purpose for obtaining the report.

Prescreened Solicitations – If the Bank requested a pre-screened list from a consumer reporting agency for purposes of making any solicitation, we will evaluate whether the resulting offer to consumers met the following requirements of Section 604(c) of the FCRA:

- Consisted of a "firm offer of credit" as defined in Section 603(l) of the FCRA.
- Contained a clear and conspicuous statement that: Information contained in the consumer's consumer report was used in connection with the transaction. The consumer received the offer of credit or insurance because the consumer satisfied the criteria for credit worthiness under which the consumer was selected for the offer. If applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not continue to meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral. The consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit or insurance transaction that is not initiated by the consumer and the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under Section 1681b(e) of this title [15].
- Included the address and toll-free number of the appropriate notification system.
- Included the model format prescribed by the FTC including the sample short notice and the sample long notice.

Duties of Furnishers

Policies and Procedures Regarding Accuracy and Integrity of Furnished Information – We will review the Bank's written policies and procedures regarding the accuracy and integrity of the information that it furnishes to consumer reporting agencies. We will evaluate whether the written policies and procedures:

- Are appropriate to the nature, size, complexity, and scope of the Bank's activities
- Incorporate the guidelines from the regulation that are appropriate to the Bank
- Incorporate procedures regarding the resolution of direct disputes

Bank Practices Regarding Accuracy and Integrity of Furnished Information – Based on discussion with Bank personnel and a review of available documentation, including relevant system parameters, we will evaluate whether the Bank:

- Refrains from furnishing any information relating to a consumer to any consumer reporting agency if it knows, or consciously avoids knowing, that the information is inaccurate.
- Promptly notifies a consumer reporting agency if it determines that it furnished information that was not complete or accurate, provides to the consumer reporting agency any corrections or additional information necessary to correct any reported information found to be incomplete, and refrains from thereafter reporting any of the information that remains incomplete or inaccurate.
- Notifies consumer reporting agencies of the month and year of the commencement of delinquency on an account that immediately preceded the account being placed for collection, charged to profit or loss, or subject to any similar action.
- Reports information as "disputed," to the extent the completeness or accuracy of the information was disputed by the consumer, even if the results of a direct dispute investigation demonstrate otherwise.

Testing the Resolution of Direct Disputes – We will review a sample of disputes received by the Bank regarding the accuracy or integrity of information contained in a consumer report regarding an account or other relationship that the Bank has or had with the consumer to evaluate whether:

- The Bank conducted a reasonable investigation, to the extent required, including a review of all relevant information provided by the consumer, and reported the results of the investigation to the consumer within 30 days of receiving the dispute.
- To the extent the investigation finds that the information reported was inaccurate, the Bank promptly notified each consumer reporting agency to which it provided inaccurate information and provided any correction to that information to make it accurate.
- To the extent the dispute is considered "frivolous or irrelevant," the Bank notified the consumer of this determination no later than five business days after making the determination.

Credit Reports for Employment – We will review a sample of employment files where applicants for employment were denied based on information contained within a consumer report to evaluate that the Bank was in compliance with the pertinent sections of the FCRA.

V. Scope of Services

Identity Theft Red Flag Procedures

We will review the Bank's written Identity Theft Prevention Program (Program) to evaluate whether it meets the criteria as shown below.

Identifies relevant Red Flags for the covered accounts that the financial institution offers from each of the following categories:

- Alerts, notifications or other warnings received from consumer reporting agencies or service providers such as fraud detection services.
- Presentation of suspicious documents.
- Presentation of suspicious personal identifying information.
- The unusual use of, or other suspicious activity related to, a covered account.
- Notices from customers, victims of identity theft, law enforcement authorities or other persons regarding possible identity theft.
- Addresses how the institution will detect Red Flags in connection with both the opening of new covered accounts and the maintenance of existing covered accounts.
- Provides for appropriate responses to each of the Red Flags the financial institution has identified that are commensurate with the degree of risk posed.
- Provides for the updating of the program periodically to reflect changes in risks to customers or to the safety and soundness of the financial institution from identity theft.

We evaluate whether the board of directors, a committee of the board or a designated employee at the level of senior management has provided for the oversight, development, implementation of the program by:

- Assigning responsibility for the Program's implementation to a specific employee or employees of the financial institution.
- Reviewing annual reports prepared by staff regarding compliance by the financial institution with the requirements of the program.
- Approving material changes to the Program as necessary to address changing identity theft risks.

We will evaluate whether the financial institution has developed a training program that has provided or will provide for, the following:

- Initial training for all appropriate personnel on the aspects of the program that apply to their job function.
- Incorporation of the program's requirements into the training provided to all new financial institution personnel.
- On-going training for financial institution personnel on an annual or otherwise reasonable periodic basis.

We will evaluate whether the financial institution has developed an appropriate method for the exercise of oversight over service provider arrangements by using one of the following methods:

- If the Bank has elected to monitor service provider arrangements by relying on guidelines in its Information Security Policy (ISP), request and review the ISP as well as a sample of three service provider contracts entered into since November 1, 2008. We will determine whether the ISP adequately addresses service provider contracts and is the content of the contracts consistent with the ISP requirements.
- If the Bank has stated, within its program or otherwise, that it will require special contract provisions within service contracts, request and review a sample of three service provider contracts entered into since November 1, 2008. We will determine if the contracts contain the language required by the Bank's written Program.
- If the Bank uses another method to exercise oversight over service provider arrangements, we will determine if the method selected is consistent with the provisions of the Bank's program and with the requirements of the regulation.

We evaluate whether a report on the financial institution's compliance with its Identity Theft Protection Program has been made to the board of directors, an appropriate committee of the board, or a designated member of senior management on an annual basis.

We will review the most recent report submitted on the Bank's Identity Theft Prevention Program and evaluate whether the report addressed the following elements:

- The effectiveness of the financial institution's policies and procedures in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts.
- Service provider arrangements.
- Significant incidents involving identity theft and management's response.
- Recommendations for material changes to the Program

We will evaluate whether the Bank has developed and implemented reasonable policies and procedures for furnishing consumer reporting agencies with an address for consumers that the Bank has reasonably confirmed is accurate when the Bank receives a notice of address discrepancy.

We will evaluate whether the Bank has established and implemented reasonable policies and procedures to assess the validity of a change of address if it receives notification of a change of address for a consumer's debit or credit card account and within a short period of time afterwards receives a request for an additional or replacement card.

Other Requirements

We will review a sample of employment files where applicants for employment were denied based on information contained within a consumer report to evaluate that the Bank was in compliance with the pertinent sections of the FCRA.

V. Scope of Services

We will review any written credit policies and procedures utilized by the Bank to test whether these policies and procedures reflected appropriate treatment of consumer medical information.

We will evaluate the Bank's training and other appropriate guidance it provides loan officers and other pertinent personnel on how to identify and respond to fraud and active duty alerts contained within a consumer credit report.

We will evaluate the Bank's procedures for providing consumers with the required notice that negative information may be reported to a consumer reporting agency.

We will review the Bank's practices for sharing non-transaction and experience information with its affiliates, to evaluate whether the Bank provides consumers with adequate notice of their right to opt-out of this information sharing.

We will evaluate whether the Bank had reasonable policies, procedures and processes to administer the opt-out requests of customers that did not want information being shared with affiliates.

We will review the Bank's information sharing practices to ensure they are consistent with the FCRA restrictions on the sharing of medical information.

We will evaluate the adequacy of the Bank's policies, procedures, and processes to test if they comply with the requirement to provide application and business transaction records to victims of identity theft.

We will evaluate the appropriateness of the Bank's policies, procedures and processes to test electronically generated receipts from ATMs and POS terminals or other machines do not contain more than the last five digits of the card number and do not contain the expiration dates.

V. Scope of Services

Review: Deposit-related Laws and Regulations

12 CFR Chapter X Part 1030 – Truth-in-Savings (Regulation DD)

Initial Disclosures – We will review the Bank's initial deposit account disclosures to test the Bank's compliance with the requirements of Section 1030.4 of Regulation DD. We will also compare the Bank's initial deposit account disclosures to its system parameters to test whether the disclosures are consistent with the actual terms in effect at the time of review.

Time Deposit Maturity Notices – We will review a sample of the Bank's certificate of deposit maturity notices to test their compliance with the requirements of Section 1030.5(b) of Regulation DD.

Periodic Statements – We will review a sample of periodic statements for the Bank's interest bearing consumer deposit accounts to test their consistency with the requirements of Section 1030.6, Section 1030.7 and Section 1030.11(a) of Regulations DD.

Change in Terms – We will inquire as to whether any change in terms have occurred that would have required notice pursuant to Section 1030.6 of Regulation DD and whether consumers were provided notification of such changes consistent with the regulations.

12 CFR Chapter X Part 1005 – Electronic Funds Transfers (Regulation E)

Unsolicited Access Devices – We will inquire about the Bank's practices for issuing unsolicited access devices to test whether these practices are consistent with the requirements of Section 1005.5 of Regulation E.

Initial Disclosure – We will review the Bank's initial deposit account disclosures to test the disclosure's compliance with the requirements of Section 1005.7 of Regulation E.

Change in Terms – We will inquire as to whether any change in terms have occurred that would have required notice pursuant to Section 1005.5 of Regulation E and whether consumers were provided notification of such changes consistent with the regulations.

ATM Receipts – We will review a sample receipt from 15 of the Bank's automated teller machines to test their consistency with the requirements of Section 1005.9(a) of Regulation E.

EFT Disputes – We will review a sample of 10 EFT disputes submitted by consumers to test whether they were resolved in a manner consistent with the requirements of Sections 1005.6 and 1005.11 of Regulation E.

ATM and Debit Card Overdraft Opt-in – We will review a sample of consumer deposit accounts that have incurred overdraft charges for ATM or debit card transactions to test whether the Bank has complied with the provisions of Section 1005.17 of Regulation E. We will also review the Bank's overdraft protection program in relation to guidance provided by the FDIC.

Periodic Statements – We will review a sample periodic statement for a consumer deposit account to test whether the statement contains the information required by Section 1005.9(b) of Regulation E.

Foreign Remittance Transfer Rules – As applicable, we will review for compliance with the provisions of Sections 1005.30-36 of Regulation E.

12 CFR Part 229 – Expedited Funds Availability (Regulation CC)

Initial Disclosure – We will review the Bank's initial deposit account disclosures to test the disclosure's compliance with the requirements of Section 229.16 of Regulation CC.

Hold Notices – We will review a sample of 10 hold notices provided to consumers to evaluate whether the holds were placed and disclosed in accordance with the requirements of Sections 229.10, 229.12, 229.13 and 229.16(c) of Regulation CC.

Substitute Check Disclosure – We will inquire as to the circumstances in which the Bank provides consumer customer's with the substitute check disclosure to evaluate whether the Bank's practices are consistent with the requirements of Section 229.57 of Regulation CC.

12 CFR Part 233 – Prohibition on Funding of Unlawful Internet Gambling (Regulation GG)

We will review the written policies and procedures established by the Bank to identify and block or otherwise prevent or prohibit restricted transaction related to unlawful Internet gambling to test their compliance with the requirements of Section 233.6 of Regulation GG.

If the Bank uses due diligence procedures at the time a customer relationship is established to comply with the requirements of Regulation GG, we will review new account documentation for a sample of 15 accounts to test whether the Bank is complying with its written policies and procedures.

We will review the Bank's procedures for providing commercial customers with notification that restricted transactions related to unlawful Internet gambling are prohibited as required by Section 233.6(b)(3) of Regulation GG.

We will inquire if the Bank has had actual knowledge that a commercial customer has engaged in restricted transaction since the effective date of the regulation (June 1, 2010). If so, we will test whether the Bank responded to this knowledge in accordance with its written policies and procedures.

Advertising and Website Compliance Review

We will request the Bank's advertising records for the previous 12 months and conduct a review of a judgmental sample of advertisements for compliance with Sections 1030.8 and .11 of Regulation DD.

If applicable, we will review the Bank's rate board located at the main banking facility to evaluate the Bank's compliance with Section 1030.8 of Regulation DD.

We will review each page of the Bank's website to evaluate whether it contained the official advertising statement, *i.e.*, "Member FDIC," if required.

We will assess whether any web pages that promote nondeposit investment products refrained from including "Member FDIC," to the extent prohibited by Section 328 of the FDIC's rules and regulations.

We will review the website's home page, and each page that promotes housing-related loans, to evaluate whether they included the equal housing lender legend and logotype in accordance with the Fair Housing Act's advertising requirements.

We will review the links to third-party websites and evaluate whether each link contains a disclosure that the Bank is not responsible for the content of the third-party website, as recommended by the Interagency Guidance on Weblinking.

We will evaluate whether the website refrains from promoting products or services in a manner that could be considered unfair or deceptive in any respect, as prohibited by Section 5 of the Federal Trade Commission (FTC) Act.

We will review the Bank's website to evaluate whether it is free of any discriminatory content.

We will review the Bank's website to determine if it promotes the Bank's overdraft protection program and, if so, evaluate whether:

- Any reference to the overdraft protection program adheres to the requirements of Section 1030 of Regulation DD.
- The Bank included the appropriate overdraft fee disclosures required by Section 1030.11(b) of Regulation DD.

If the website contains a residential loan application, we will evaluate whether:

- The information requested on the application is consistent with the requirements of Regulation B.
- The application appropriately requests government-monitoring information, if necessary.
- The website includes the adjustable rate mortgage program (ARM) disclosure and the Consumer Handbook on Adjustable Rate Mortgages (CHARM booklet), in an appropriate manner, as necessary.

If the website contained a Home Equity Line of Credit (HELOC) application available online, we will evaluate whether:

- The information requested on the application is consistent with the requirements of Regulation B.
- The application refrains from requesting government monitoring information, as required by Section 1002.5 of Regulation B.
- The website provides consumers with the HELOC application disclosure and the home equity brochure prior to providing access to the application, as required by Section 1026.5b of Regulation Z.

If the website allows accounts to be opened online, we will evaluate whether all required disclosures are being appropriately provided in accordance with the following regulations:

- Regulation E – Electronic Funds Transfers

- Regulation CC – Expedited Funds Availability
- Regulation DD – Truth-in-Savings
- Privacy of Consumer Financial Information
- E-Sign Act

If the website provides credit card applications, solicitations or advertisements, we will evaluate whether appropriate disclosures are provided in accordance with Sections 1026.5a and 1026.16 of Regulation Z.

If the website promotes any insurance products, we will evaluate whether the disclosures required by the Consumer Protection in Sales of Insurance regulation were provided.

If the website contains open-end credit triggering terms, we will evaluate whether the required disclosures were appropriately provided, as outlined in Section 1026.16 of Regulation Z.

If the website contains closed-end credit triggering terms, we will evaluate whether the required disclosures were appropriately provided, as outlined in Section 1026.24 of Regulation Z.

If the website discloses a rate of return or an annual percentage yield, we will evaluate whether the advertising disclosures required by Section 1030.8 of Regulation DD were provided.

Branch Signage Review

We will review the Bank's official advertisement of membership signs displayed in the main Banking facility to evaluate the Bank's compliance with Section 328.2 of the FDIC Rules and Regulations.

We will review the Bank's funds availability notice posted in the main banking facility to evaluate the Bank's compliance with Section 229.18 of Regulation CC.

We will review the Bank's Equal Housing Lender Poster displayed at the main banking facility to evaluate the Bank's compliance with Section 338 of the FDIC's regulations.

We will review the Community Reinvestment Act (CRA) public file located at the main banking facility to evaluate the Bank's compliance with Section 345.43 of the FDIC's regulations.

We will review the CRA notice displayed at the main banking facility to evaluate the Bank's compliance with Section 345.44 of the FDIC's regulations.

We will review the automated teller machine (ATM) located at the main banking facility to evaluate the Bank's compliance with Section 229.18 of Regulation CC.

We will review the ATM located at the main banking facility to evaluate the Bank's compliance with Section 1005.16 of Regulation E.