Testimony of

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and

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before the

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Chairman Hensarling, Ranking Member Waters, distinguished members of the Committee on Financial Services, my name is Jim Purcell, and I am Chairman of the State National Bank of Big Spring. This year, I also have the honor of serving as Chairman of the Texas Bankers Association, which is the largest and oldest of the nation's 50 state banking associations.

In another capacity, State National Bank of Big Spring is the bank plaintiff in the principal case challenging the constitutionality of the Dodd-Frank Act, but I am not appearing here today in that capacity. That case, I might add however, remains pending in federal court in the District of Columbia after the Circuit Court of Appeals recently affirmed the parties' standing to bring the suit.

The State National Bank of Big Spring opened in 1909 as a family-owned bank. Today, the bank operates in three offices, has total assets of $321 million, and is the only bank

headquartered in the west Texas town of Big Spring, which has a population of approximately 28,000. Certainly we are a community bank as that phrase is generally understood, but I want to mention that we also remain a family-owned bank with Mr. John Currie still providing valued input as our Chairman Emeritus. That is a unique and often overlooked factor in the understanding and regulation of the banking industry.

I am a first generation banker and started my banking career in 1975 after an accident resulted in a doctor telling me I was not to get on a horse or a tractor for at least a year. After various interviews, and for reasons I'm still not sure, I chose the lowest paying job, with the fewest benefits, at a location which is one of the coldest places in Texas. It was at the Citizens State Bank in Dalhart, which also had the oldest group of officers of anyplace I interviewed. But they were very tied into the local community and I quickly learned that that's what made them successful bankers.

Since I started my career in bookkeeping, let me start with some numbers. In June, 2010, when the Dodd-Frank Act was being finalized, there were 626 FDIC-insured banking institutions in Texas. As of the last quarter reported by the FDIC (March 31, 2016), we are down to 477 or a decline of 149 institutions in a state with one of the healthiest economies in the country.

Now, of course, no one is ascribing this 24-percent decline solely to passage of the Dodd-Frank Act, but these are the numbers and we certainly do not think this result is a coincidence. As a community banker, my belief is that the Dodd-Frank Act has been very negative not just for community banks but across the entire industry. More importantly, it has likewise had a negative impact on the country by restraining the banking industry's ability to intermediate our depositors' funds into loans for individuals, businesses, and other worthy

borrowers as would have otherwise been the case. In other words, it is an across-the-board problem for small, large and medium-sized banks.

For this reason, the Texas Bankers Association strongly supports the Financial Choice Act as a path to reform through the option of establishing a capital threshold for relief from the hopelessly complex Basel III requirements and other aspects of counterproductive regulation. The bill would utilize a capital standard of ten percent, which is double the current definition of a "well-capitalized" bank,[1] for purposes of establishing the threshold for the lesser regulatory structure. We are still in the process of analyzing the feasibility of that number across the full range of Texas banking institutions. One approach meriting further exploration is a leverage test that would include a simplified risk-based aspect (as distinct from Basel III) and perhaps a component, as has also been suggested by FDIC Vice Chairman Hoenig, which would incorporate a business "activities" test.[2]

As recently outlined in Congressional testimony, the American Bankers Association pointed out that U.S. regulators participated in the international discussions establishing the new Basel requirements without full input as to how the Basel plans would affect U.S. institutions, markets, and the overall economy, and that by the time that implementing regulations were proposed, U.S. regulators considered themselves committed to the global Basel plan. The problem, of course, is that the community bank model with thousands of small local institutions is unique to the United States. It simply makes no sense for the banking regulators to take the

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[1] FDIC Reg. 325.103(b)(1)(iii).

[2] FDIC Vice Chairman Thomas Hoenig, *A Conversation about Regulatory Relief and the Community Bank* (2015) at www.fdic.gov/news/news/speeches/spapril1515.html.

capital rules developed as part of a program to unify capital standards for the largest banks in the world and apply them to every bank in the United States.

Four years ago, when I last had the opportunity to testify before this committee, I cited this comment from Senator Dodd that: "in a nation with more than 6,000 banks, the bulk of the bill's new regulations apply only to a few dozen of the largest ones, each holding more than $50 billion in assets."[3] No prediction could be further off the mark. In terms of the former Chairman's reference to the total number of U.S. banking institutions, it is still above 6,000 (6,122), but that is down a staggering 1,708 from the number of U.S. banks just prior to the enactment of the Dodd-Frank Act. Most alarmingly of all, just three new banks were chartered since 2010, which has been the consistent pattern over the six years since adoption of the Dodd-Frank Act.

As we view it, the Financial Choice Act outlines meaningful direction for reform, but in the face of these numbers and in full candor, we need to do much more and need to do it much sooner than can reasonably be anticipated from this starting point. Our message to Congress, as drawn from the very outset of seeing how the Dodd-Frank Act was being implemented, has been on the need for additional flexibility so that regulators can tailor their policies and examinations to a bank's business model. What I hear from bankers in Texas and around the country is that the pendulum in bank examinations over the last five years has been transposed from prudent oversight to compliance overreach.

In that connection, we are also glad to see H.R. 2896, the Taking Account of Institutions with Low Operation Risk Act (TAILOR Act) of 2015, as introduced by Rep. Scott Tipton

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[3] *Five Myths about the Dodd-Frank Act*, Washington Post (Nov. 19, 2011).

included in the Financial Choice Act. That legislation is designed to have regulatory actions oriented to a bank's business model and risk profile regardless of asset size.

Perhaps there is a post-Dodd-Frank business model that works by spreading the ever-rising costs of regulatory compliance over a growing or more affluent customer base, but that doesn't work for banks located in small towns and rural areas. The CFPB website says "We are the Consumer Financial Protection Bureau, a U.S. government agency that makes sure banks, lenders, and other financial companies treat you fairly."[4] But how is it "fairer" to force our customers to go elsewhere for their real estate loans as a consequence of the fact that our mortgage platform did not fit the Dodd-Frank/CFPB profile of a "Qualified Mortgage"?

The problem for us, and I am sure many others, is that our borrowers generally sought relatively small mortgages for their properties which meant that the loan's costs and fees had to be spread across a smaller principal balance. Even though we did not charge any application fees, origination fees, or any other type of fee, these were 5-year balloon notes which typically meant they would fall into the disfavored "high-cost" definition. In addition, we ran into obstacles arising from the regulation's definition of maximum debt-to-income ratios for borrowers. The end result, at least for us, was that due to the increased regulatory burden and potential liability, State National Bank of Big Spring ceased making what we always deemed very good and certainly very fair mortgage loans for the good of both our customers and the broader community.

In conclusion, Mr. Chairman, the Texas Bankers Association appreciates all the work which obviously went into the preparation of this legislation and we look forward to working

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[4] www.consumerfinance.gov.

with all members of the committee to advance the regulatory reforms which would allow our industry to get back into the business of making loans as best tailored for our individual communities. We appreciate that there are many important issues coming before Congress, but in another week or so it will have been six years since the Dodd-Frank Act was signed into law. The result has been, from the standpoint of Texas banks, more obstacles to lending, increased costs, and less ability to serve customer needs.