Testimony of Brad Miller
House Committee on Financial Services
Hearing entitled "The Dodd-Frank Act Five Years Later: Are We More Prosperous?"
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Good morning Chairman Hensarling, Ranking Member Waters and Members of the Committee. I'm Brad Miller. I served for an eventful decade as a member of this Committee.

I introduced legislation early in 2004 to prohibit predatory subprime mortgage lending. I endured the explanation by the industry and by their many allies on this Committee that I probably meant well, but subprime mortgages were the triumph of the innovation that comes from unfettered capitalism. From the industry, their allies on this Committee, and conservative commentators, not a discouraging word was heard about subprime mortgages. Dreary rules like those I proposed, they said, were relics from a distant time when the financial industry did not perfectly understand and manage risk, and would deny low-income and minority borrowers the dream of home ownership.

I have not heard that argument since September of 2008, when the Bush Administration came to Congress and said that if we did not act immediately, the world's financial system would collapse and what followed would make the Great Depression seem like a hiccup. But within days I heard another argument from the same people that I had never heard before. Liberals bullied innocent banks into giving foolish mortgages to low-income and minority borrowers. It was government, they said, that caused the crisis.

That argument has been demolished repeatedly by peer-reviewed, scholarly studies, but I did not believe that argument the first time I heard it because of my own experience and what I know of the law of evidence. When a witness's testimony is self-serving, the witness made "prior inconsistent statements" that were also self-serving at the time, and the witness cannot explain the inconsistency, you can decide not to believe a word the witness said.

Since then I may have disbelieved some things industry lobbyists said that were actually true. There's a reason that parents for centuries have told their children the story of "The Little Boy Who Called Wolf. "

The Dodd-Frank Act is the response to the worst financial crisis and the worst economic downturn since the Great Depression. The Act includes a version of the home mortgage rules that I first introduced in 2004, and home mortgages are the nation's largest asset class. The Act created the Consumer Financial Protection Bureau to protect against other abusive practices, and to examine skeptically industry arguments that new lending practices that appear predatory to the uninitiated are really marvels of innovation. The Act requires banks to have more capital, and gives regulators more authority to require large financial institutions to show that they won't bring the entire financial system down if they get in trouble and to make changes if they can't. Trading in derivatives is more transparent than it was before, although that is an unacceptably low bar.

Dodd-Frank was a compromise and reformers did not get all we wanted, but it was probably all that was possible at the time, given the industry's continued enormous clout in Washington, even while the industry stood in complete disrepute among the American people. We are better off, and more prosperous, than we would be without it.

But we have a financial system that still needs reform. The industry is too crooked, too large and takes too much of the economy at the expense of people trying to make an honest living. Instead of a smooth flow of money from savers to people who can put money to productive use, far too much money coagulates on Wall Street.

First, there has been no end to scandals: Pervasive misrepresentation of the mortgages that backed mortgage-backed securities, illegal foreclosures, manipulation of LIBOR and the other BORs, manipulation of electricity and other markets, manipulation of Treasury auctions, money laundering for drug cartels and genocidal regimes, rigging foreign exchange markets, and on and on.

According to a recent survey, almost half of financial industry professionals said they thought their competitors cheated, and 22 percent said they observed or had firsthand knowledge of misconduct at the workplace. Other findings suggest that many more probably saw the same conduct and had no problem with it.

According to a 2012 poll, 68 percent of Americans ***disagreed*** with the statement "In general, people on Wall Street are as honest and moral as other people."

William Dudley, head of the New York Fed and a Goldman Sachs alum, said last year that repeated scandals were not the work of a few bad apples but were the product of the culture of Wall Street, which is a threat to financial stability.

And some, to quote the Republican frontrunner, I assume are good people.

Second, the financial sector has more than doubled in size as a percentage of the economy since 1980. Largely because of the mergers during the crisis, which resembled a drunken couple holding each other up on the dance floor, on top of the deregulation of the nineties, including Gramm-Leach-Bliley, the biggest banks are even bigger. Some on this Committee have pointed to that consolidation as evidence that Dodd-Frank made the financial system less stable, but have not supported any legislation to break up the biggest banks. I introduced legislation that Sherrod Brown introduced in the Senate to break up the six biggest banks into at least 30 banks by capping the overall size. I do not recall any support for that proposal among the critics of Dodd-Frank. Others propose a modern requirement that investment banks be separated from commercial banks, but again, with little support from critics of Dodd-Frank.

Instead, Congress repealed the provision of Dodd-Frank that required that the riskiest swaps be traded in a separately capitalized, “bankruptcy remote” subsidiary to protect taxpayer insured deposits and our economy’s payment system.

Most of the debate about the size of the financial system has been about what happens when things go wrong, like London Whale trades. What happens when things go right is just as big a problem. When things go right, there is harm that often goes undetected, like a patient with a parasite who does not understand why he is always tired.

The Whale trades were in JPMorgan’s “synthetic credit portfolio.” Real credit is vital to the economy. Synthetic credit is a derivative that is a bet on whether a borrower defaults on a debt to someone else. The contribution to the economy of synthetic credit appears to approximately the same as the nutritional value of plastic fruit.

The financial reforms enacted by Congress in the New Deal showed urgency and imagination, and the economy grew by eight percent a year for the first four years of the Roosevelt Administration before the recession of 1937 and 1938. That will be hard to replicate. But the reforms ended frequent financial crises and created a steadily growing economy that lasted for well more than a generation and created widely shared prosperity. The prosperity extended to Americans who had been left out before. In 1930, per capita income in the South was 55 percent the national average. In 1960, it was 78 percent.

Yes, I want to avoid another financial crisis, but I also want an economy that grows and creates more prosperity for more Americans. To accomplish that, we still have work to do.